

## CHAPTER 109

### Income Tax

(Last Revised 1/17/2012 by Ordinance No. 6-2012)

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#### **109.01 PURPOSE**

To provide funds for the purpose of general municipal operation, maintenance, new equipment, extension and enlargement and improvement of municipal services and facilities and capital improvements of the Village of Holland. There shall be, and is hereby, levied a tax on income, qualifying wages, commissions and other compensation, and on net profits as hereinafter provided.

#### **109.02 DEFINITIONS**

As used in this chapter, the following words shall have the meaning described to them in this Section, except as and if the context clearly indicates or requires a different meaning. The singular shall include the plural and the masculine shall include the feminine and the neuter.

**ADJUSTED FEDERAL TAXABLE INCOME** - A “C” corporation’s federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute “Adjusted

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Federal Taxable Income” as if the pass-through entity was a “C” corporation. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code (ORC) section 5745.03 or to the net profit from a sole proprietorship. (For calculation of “adjusted federal taxable income” see Ohio Revised Code (O.R.C.) 718.01(A).)

**ASSIGNMENT** – The assignment made by a resident of a municipality of claim for a refund due from another taxing municipality granting credit to non-residents thereof.

**ASSOCIATION** – A partnership, limited partnership, limited liability company, Sub-S corporation, or any other form of unincorporated enterprise, owned by one or more persons.

**BOARD OF REVIEW** – The Board created by and constituted as provided in Section [109.13](#) of this chapter.

**BUSINESS** – An enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by individual, partnership, association, corporation or any other entity.

**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 except for a Sub-S corporation.

**DOMICILE** – A permanent legal residence that a taxpayer intends to use for an indefinite or unlimited period, and to which, when absent, the taxpayer intends to return. An individual has only one domicile.

**EMPLOYEE** – One who works for qualifying wages, salary, commission or other type of compensation in the service of and under the control of any employer and whose qualifying wages, salary, commissions are subject to withholding Federal Income Tax, Social Security Tax, and/or Medicare Tax.

**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.

**FIDUCIARY** – Means a guardian, trustee, executor, administrator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.

**FISCAL YEAR** – An accounting period of twelve (12) months ending any day other than December 31<sup>st</sup>.

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**GENERIC FORM** - An electronic or paper form designed for reporting estimated municipal income taxes, and/or annual municipal income tax liability, and/or separate requests for refunds that contain all the information required on Holland's regular tax return and estimated payment forms, and are in a similar format that will allow processing of the generic forms without altering Holland's procedures for processing forms.

**GROSS RECEIPTS** – The total income derived from sales, work done, or service rendered.

**INCOME** - All monies and compensation in any form, subject to limitations imposed by ORC 718, derived from any source whatsoever, including but not limited to:

- A. All income, qualifying wages, commissions, other compensation and other income from whatever source received by residents of Holland.
- B. All income, qualifying wages, commissions, other compensation and other income from whatsoever source received by nonresidents for work done or services performed or rendered or activities conducted in Holland.
- C. The portion attributable to the Village of the net profits of all businesses, associations, professions, corporations, or other entities, from sales made, work done, services performed or rendered, and business or other activities conducted in Holland.

**JOINT ECONOMIC DEVELOPMENT ZONE** – A zone created under Ohio Revised Code 715.691, and as may be amended from time to time. Tax on income, due the Village of Holland from a Joint Economic Development Zone, shall apply to all income that is taxable under this chapter.

**NET PROFITS** – 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 (i.e., cash or accrual) used by the taxpayer for federal income tax purposes, or system approved by the Tax Administrator, without deduction of taxes imposed by this chapter, federal, state and other taxes based on income; and in the case of an association, without deduction of salaries paid to partners, and other owners; and otherwise adjusted to the requirements of this chapter. (For taxable years 2004 and later, see “adjusted federal taxable income”.)

**NON-RESIDENT** – An individual domiciled outside of Holland.

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**NON-RESIDENT UNINCORPORATED BUSINESS ENTITY** – An unincorporated business entity not having an office or place of business within the Village of Holland.

**OFFICE** – See “Place of Business”.

**PASS-THROUGH ENTITY** - A partnership, Sub-S Corporation, Limited Liability Company, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code. Unless otherwise specified, for purposes of this chapter the tax treatment for pass-throughs is the same as “Association”.

**PENSION** – Income earned or received as a result of retirement from employment from an IRS qualified retirement plan and which is generally, although not exclusively, reported to the taxpayer by the payer on a Form 1099-R or similar form.

**PERSON** – Every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term “person” as applied to an unincorporated entity, shall name the partners or members thereof and as applied to corporations to the offices thereof.

**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 agents or employees.

**QUALIFYING WAGE** - Wages as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, but including subsequent adjustments from required additions and deductions. “Qualifying wage” represents employees’ income from which municipal tax shall be deducted by the employer, and any wages not considered a part of “qualifying wage” shall not be taxed by a Municipality. (For calculation of “Qualifying Wages” see O.R.C. 718.03.)

**RESIDENT** – An individual domiciled in the Village of Holland.

**RESIDENT UNINCORPORATED BUSINESS ENTITY** – An unincorporated business entity having an office or place of business within the Village of Holland.

**SALARIES, WAGES, COMMISSIONS, AND OTHER COMPENSATION** – The total compensation paid to an individual in cash or in kind on an hourly, daily, weekly, monthly, annual, or other basis, including, but not limited to the

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following: severance or termination pay; wage continuation payments made as a result of early retirement or employment termination; wage continuation payments made as a result of sickness or temporary disability and whether paid by the recipient's employer or by a third party; vacation or holiday pay; tips or gratuities received; group term insurance premiums paid on an employee's behalf; ordinary income portion of stock options or employee stock purchase plans; supplemental unemployment benefits (SUB Pay); strike pay stipends if work required; employee contributions or amounts credited to non-qualified pension plans or deferred compensation plans at the time of deferral and to the extent subject to Medicare tax; working conditions fringe benefits subject to tax by IRS; guardian, executor, director, conservator, trustee, or administrator fees; bonuses; ordinary income portion of lump sum distributions which become subject to federal tax because the recipient did not roll over the distribution within the time required by the IRS.

**TAX ADMINISTRATOR** – The person so designated and appointed by the Mayor and approved by the Council of the Village of Holland or the person executing the duties of the aforesaid Tax Administrator.

**TAXABLE YEAR** – The calendar year, or the fiscal year upon the basis of which the net profits are to be computed under this chapter and, in the case of a return for a fraction part of the year, the period for which such return is made.

**TAXING MUNICIPALITY** – Any municipal corporation or Joint Economic Development Zone levying municipal income tax on income, qualifying wages, commissions and other compensation earned by individuals and on the net profits earned from the operation of a business, profession or other activity.

**TAXPAYER** – A person, whether an individual, partnership, association or any corporation or other entity, subject to the tax imposed by this chapter or required hereunder to file a return and/or pay a tax.

**VILLAGE** – The Village of Holland, Ohio.

#### **109.03 IMPOSITION OF TAX**

Subject to the provisions of Section [109.16](#) of this chapter, an annual tax for the purposes specified in Section [109.01](#) of this chapter shall be imposed on and after January 1, 1985 at the rate of two and one-quarter (2 ¼%) per cent per annum upon the following:

- A. On all income, qualifying wages, commissions, and other compensation, and on net profits from unincorporated business entities and professions, earned and/or received after January 1, 1985, by residents of the Village of Holland.

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- B. On all income, qualifying wages, commissions and other compensation earned and/or received on and after January 1, 1985, by nonresidents of the Village of Holland for work done or services performed or rendered within the Village of Holland. Separation pay, termination pay, reduction-in-force pay, and other compensation paid as a result of an employee leaving the service of an employer shall be allocable only to the Village. However:
1. The Village shall not tax the income, qualifying wages, commissions and other compensation of a non-resident individual who will be deemed to be an occasional entrant if all of the following apply:
    - a. The income, qualifying wages, commissions and other compensation is paid for personal services performed by the individual in the Village on twelve or fewer days during the calendar year, in which case the individual shall be considered an occasional entrant for purposes of the Village income tax. A day is a full day or any fractional part of a day.
    - b. In the case of an individual who is an employee, the principal place of business of the individual's employer is located outside the Village and the individual pays tax on compensation described in Section 109.03B to the municipality, if any, in which the employer's principal place of business is located, and no portion of that tax is refunded to the individual.
    - c. The individual is not a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such a promoter, all as may be reasonably defined by the Village.
  2. Beginning with the thirteenth day an individual deemed to have been an occasional entrant to the Village performs services within the Village, the employer of said individual shall begin withholding the Village income tax from remuneration paid by the employer to the individual, and shall remit the withheld income tax to the Village in accordance with the requirements of this chapter. Since the individual can no longer be considered to have been an occasional entrant, the employer is further required to remit taxes on income earned in the Village by the individual for the first twelve days.
  3. If the individual is self-employed, it shall be the responsibility of the individual to remit the appropriate income tax to the Village.

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- C. On the portion attributable to the Village of Holland on the net profits earned on and after January 1, 1985, of all resident unincorporated businesses, professions, associations or other entities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the Village of Holland. Although the tax on net profits is passed through to owners, partners, and shareholders, the Resident associations nevertheless shall, on behalf of its owners, partners, and shareholders, remit to Holland the appropriate tax due on the respective distributive shares of the owners, partners, and shareholders.
- D. On the portion of the distributive share of the net profits earned and/or received on and after January 1, 1985, of a resident partner or owner of a resident unincorporated business entity not attributable to the Village of Holland and not levied against such unincorporated business entity by the Village of Holland; provided that such income of such resident partner shall be subject to the credit provisions of Section [109.15](#) of this chapter.
- E. On the portion attributable to the Village of Holland of the net profits earned on and after January 1, 1985, of all non-resident persons, unincorporated businesses, professions, associations and other entities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the Village of Holland, whether or not such person, unincorporated business entity, profession or other entity has an office or place of business in the Village of Holland.
- F. On the portion of the distributive share of the net profit earned by a resident individual from a Sub-S Corporation, a limited liability corporation or company, or a similar business entity which is located outside of Holland. Effective for tax years 2004 and later, the distributive share of income paid to a Village corporation shareholder shall be taxable in the following manner:
  - 1. If no portion of the net profits of the Sub-S Corporation are allocated or apportioned to the State of Ohio, the distributive share is taxable only to the extent that it represents wages or net earnings from self-employment.
  - 2. If any portion of the net profits of the Sub-S corporation are allocated or (i.e., apportioned) to the State of Ohio, the full amount of the distributive share is taxable.
- G. On that portion of the distributive share of the net profits of a resident individual, partner or owner of a nonresident unincorporated business entity.

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- H. On the portion attributed to Holland of the net profits earned during the effective period of this chapter of all corporations derived from sales made, work done or services performed or rendered and business or other activities conducted in Holland whether or not such corporations have an office or place of business in Holland.
- I. On income associated with covenants not to compete, royalties from gas and oil recovery/exploration, copyrights and trademarks, to the extent subject to IRS tax.
- J. On all income, combined annually, of ten thousand dollars (\$10,000.00) or more derived anywhere from gaming, wagering, lotteries, or schemes of chance by a resident of Holland or by nonresidents of Holland when the income derived from gaming, wagering, lotteries, or schemes of chance is won and/or received from Holland sources. If said income is payable to the taxpayer in more than one year, the deduction applies only in the first year in which the income is received. If the taxpayer is considered a professional gambler for federal income tax purposes, related deductions as permitted by the Internal Revenue Code shall be allowed against gambling and sports winnings.
- K.
  - 1. Tax on Business Doing Business Both Within and Outside of the Village. The portion of net profits attributable to Holland of a taxpayer conducting a business, profession or other activity both within and outside the boundaries of Holland shall be determined as provided in O.R.C. 718.02 which is reprinted at the end of the chapter, and in accordance with the Ordinances, policies and administrative actions adopted by the Tax Administrator pursuant to this chapter.
  - 2. Depreciation recapture subject to taxation by IRS is subject to Holland tax to the extent that the recapture is not treated as capital gains by IRS.
- L. Business loss:
  - 1. Business losses are allowed to offset net profits only for like entities; for example, but not by reason of limitation, a C corporation loss can only offset the net profits of a C corporation.
  - 2. If a resident operates a business or businesses (including rental) in another taxing municipality in Ohio and the business or businesses incur a loss, the amount of the loss is deemed primarily subject to the taxing jurisdiction of the other taxing municipality and may not be used to reduce the taxpayer's Holland's tax base.



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3. Business losses cannot be used to offset wage (i.e., non-business) income.

#### M. Operating Loss Carry Forward:

1. The portion of a net operating loss sustained in any taxable year subsequent to January 1, 1969, allocable to the Village of Holland may be applied against the portion of the profit of succeeding year(s) allocable to the Village of Holland, until exhausted but in no event for more than five (5) taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.
2. For the purposes of Paragraph 1 hereof, the portion of a net operating loss sustained shall be allocated to the Village of Holland in the same manner as provided herein for allocating net profits to the Village of Holland.
3. The Tax Administrator shall provide by Ordinance, policies and administrative actions the manner in which such net operating loss carry forward shall be determined.

#### N. Consolidated Returns:

1. Effective 01/01/2003, the Tax Administrator will accept from a corporate taxpayer a consolidated income tax return from any affiliated group or corporation if that affiliated group filed a consolidated income tax return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code for the same tax reporting period. (O.R.C. 718.06)
2. In the case of a corporation that carries on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the Village of Holland constituting a portion only of its total business, the Tax Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the Village of Holland. If the Tax Administrator finds net profits are not properly allocated to the Village of Holland by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directories or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the Village of Holland.

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- O. Exemptions – Sources of Income Not Taxed:
1. Pay or allowance of active members of the armed forces of the United States and of members of their reserve components, including the National Guard. For clarification, this exemption does not apply to civilians employed by the military.
  2. Poor relief, Social Security Benefits, jury duty pay, unemployment insurance benefits except for supplemental unemployment benefits, IRS qualified retirement plan or similar payments from the plans, disability benefits received from local, state or Federal governments or charitable religious or educational organizations. The disability benefits excludable must be a permanent nature as determined by a physician or government entity.
  3. Proceeds of insurance paid by reason of death or the insured, pensions, including industrial pensions which are qualified by IRS and paid as a result of retirement; disability benefits paid for total and permanent disability, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.
  4. Receipts by bona fide charitable, religious and educational organizations and associations, when those receipts are from seasonal or casual entertainment, amusement, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations and associations and only to the extent that the said income is exempt from Federal Income Tax.
  5. Alimony, and spousal and child support.
  6. Compensation for personal injuries or for damages to property by way of insurance or otherwise by this exclusion does not apply to compensation paid for lost salaries or wages.
  7. Interest, dividends and other revenue from intangible property as set forth in O.R.C. 718.01.
  8. Amounts included in an employee W2 Form for moving expense reimbursement when the taxpayer is moving into Holland.
  9. Payments made to Election Workers.

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10. Income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities and only to the extent that the said income is exempt from federal income tax.
11. Gains from involuntary conversions, cancellation of indebtedness (individual taxpayers only), interest on federal obligations, items of income already taxed by the State from which the Village of Holland is specifically prohibited from taxing, and income of decedent's estate during the period of administration, except such income from the operation of a business.
12. Royalty income. This exemption does not apply to royalty income from oil and gas recovery/exploration.
13. Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce.
14. Salaries, wages commissions and other compensations and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of a municipality to impose net income taxes.
15. The amount of unreimbursed employee business expenses (2106 Expenses) which the employee deducted as an itemized deduction after reduction by 2% of the employee's AGI on his or her federal tax return. Taxpayer must furnish a copy of the Form 2106 and Schedule "A" as filed with IRS. The deduction must be allocated first to the municipality where the employment occurred and the credit for the tax paid there reduced accordingly. Form 2106 expenses will be disallowed if the only line showing expenses is Line 4.
16. Parsonage Allowances.  
Effective 01/01/2003, Parsonage Allowances paid to "Ministers Of The Gospel" in the form of a rental allowance as part of the minister's compensation to the extent excluded from Federal or Ohio income tax. (O.R.C. 718.01(H)(7)). The Ministers must be duly ordained, commissioned, or licensed by a religious body constituting a church or similar religious institution, and must have authority to perform all sacraments of the church or religious institution.

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- P. Expenses Not Deductible:
1. No deduction for health insurance premiums paid by self-employed taxpayers as permitted by the IRS is permitted for the Village of Holland.
  2. No deduction for self-employment tax paid by self-employed taxpayers as permitted by IRS is permitted for the Village of Holland.
  3. No deduction for contributions to IRA or Keogh plans made by taxpayers as permitted by IRS is permitted for the Village of Holland.

#### **109.04 EFFECTIVE DATE**

- A. The tax imposed by Section [109.03](#) of this chapter, as such Section existed prior to its amendment by this Ordinance No. 33-1984, passed August 21, 1984, on taxable income earned for tax years and other periods prior to January 1, 1985, shall be levied, collected and paid with respect to salaries, wages, commissions and other compensation and with respect to net profits of persons, businesses, professions and other activities at the rate of taxation then in effect in such prior tax years and other periods.
- B. The tax imposed by Section [109.03](#) of this chapter on taxable income earned for tax years and other periods commencing on and after January 1, 1985, shall be levied, collected, and paid with respect to salaries, wages, commissions and other compensation and with respect to net profits of persons, businesses, professions and other activities at the rate of taxation as provided in Section [109.03](#) of this chapter as such Section [109.03](#) was enacted by this Ordinance No. 33-1984, passed August 21, 1984.

#### **109.05 ANNUAL RETURN AND PAYMENT OF TAX**

- A. 1. Effective with the years commencing on or after January 1, 2004, each taxpayer, except as herein provided, shall, whether or not a tax is due thereon, make and file a return on or before April 15<sup>th</sup> of each year, or on or before the federal filing date if it is other than April 15<sup>th</sup>. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within three (3) months and fifteen (15) days from the end of such fiscal year or period, or on or before the federal filing date if it is other than the 15<sup>th</sup> day of the fourth month from the end of such fiscal year or period.
2. Retirees having no income considered taxable for Village of Holland income tax purposes may file, with the Tax Administrator, a written request in a

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form established by the Tax Administrator, for exemption from these filing requirements, and shall be exempt if the request is granted by the Tax Administrator. The request may be submitted by indicating, on the taxpayer's annual tax return, the retirement date and the entity from which retired. The exemption shall be in effect until such time as the retiree receives income taxable to the Village of Holland, at which time the retiree shall be required to comply with all applicable provisions of this chapter.

- B. The return shall be filed with the Tax Administrator on a form or forms furnished by or obtainable upon request from such Tax Administrator, or on an acceptable generic form as defined in this chapter, setting forth for the period indicated thereon:
1. The aggregate amount of income, qualifying wages, commissions and other compensation earned and/or received, supported by copies of the taxpayer's W-2 Forms, and
  2. The gross receipts from a business, profession or other activity less allowable expense incurred in the acquisition of such gross receipts, to arrive at a net profit supported by copies of the relative federal schedules.
  3. Such income shall include only income earned or received during the year, or portion thereof, covered by the return and subject to the tax imposed by this chapter and subject to said tax, together with such other pertinent information as the Tax Administrator may require, including but not limited to copies of all W-2 forms, 1099 Miscellaneous Income Forms, page one of form 1040, documents evidencing payment of non-wage income tax, Pages One through five of Form 1120, 1120S (including (K-1), form 2106 (including Schedule A if form 2106 is used), 1065, 4797, Schedule C (including cost of goods manufactured and/or sold), Schedule E, schedule F and any other Federal Schedules, if applicable.
  4. The amount of the tax imposed by this chapter on income reported less any payments or credits to which the taxpayer may be entitled under the provisions of this chapter; and
  5. The taxpayer making a return shall, at the time of the filing thereof, pay to the Tax Administrator the balance of tax due, if it is one dollar (\$1.00) or more, after deducting:
    - a. The amount of Holland income tax deducted or withheld at the source pursuant to Section [109.06](#) hereof;
    - b. Such portion of the tax as has been paid on declaration by the taxpayer pursuant to Section [109.07](#) hereof;

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6. Should the return or the records of the Tax Administrator indicate an overpayment of the tax to which the Village of Holland is entitled under the provisions of this chapter, such overpayment shall first be applied against any existing liability of the taxpayer and the balance, if any, at the election of the taxpayer communicated to the Tax Administrator, shall be refunded or transferred against any subsequent liability provided, that overpayments of less than one dollar (\$1.00) shall not be refunded.
- C. Amended Returns:
1. Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Sections [109.11](#) and [109.15](#). Such amended returns shall be on a form obtainable on request from the Tax Administrator. A taxpayer may not change the method of accounting (i.e., cash or accrual) or apportionment of the 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 of Holland tax liability, such taxpayer shall make and file an amended Village of Holland return showing income subject to the Village of Holland tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.
- D. Every taxpayer shall retain all records necessary to compute the correct tax liability for a period of six (6) years from the date the return is filed.
- E. Responsibility for Filing Annual or Amended Tax Return. The officer or employee of such employer having control or supervision or charged with the responsibility of filing the return and making the payment, shall be personally liable for failure to file the return or pay the tax, penalties, or interest due as required herein. The dissolution, bankruptcy or reorganization of any such employer does not discharge an officer's or employee's liability for a prior failure of such business to file a return or pay taxes, penalties, or interest due.
- F. The Return is Considered Received When: A tax return is considered received if mailed on the date postmarked by the United States Postal Service, or on the date delivered without mailing to the Holland Tax Office.

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#### G. Extensions.

1. Taxpayers granted extensions of time for filing their federal income tax returns may have an automatic extension for filing their Holland Tax Return provided that a copy of the automatic federal extension is filed with the Tax Administrator on or before the original due date of the Holland Tax Return, and provided that the taxpayer's income tax account(s) with the Village is (are) not delinquent in any way.
2. If a taxpayer wishes to extend the time for filing the Holland tax return to a date other than that provided by the automatic federal extension, the taxpayer must file such a request in writing to the Tax Administrator prior to the due date of the automatic extension. The extension may be granted or denied by the Tax Administrator in writing upon terms and conditions set forth by him or her.
3. For tax years commencing on or after January 1, 2004, the extended date for filing the Holland return will be the last day of the month following the month to which the federal income tax has been extended. For businesses, the extended due date shall be the last day of the month to which the due date of the federal income tax return has been extended, if the extension is filed through the Ohio Business Gateway. If not filed through the Ohio Business gateway the extended due date shall be the same as that for individuals.
4. Interest will be assessed from the original due date of the return until date of actual payment. If payment is made beyond the extended due date, both penalty and interest will be assessed.

H. The failure of any taxpayer to receive or procure a return, declaration or other required form shall not excuse the taxpayer from filing such forms or from paying the tax due.

I. Payments received for taxes due shall be allocated first to penalties due, then to interest due, and then to taxes due.

J. The Tax Administrator may charge a taxpayer a fixed fee for any check returned by a financial institution due to insufficient funds, closed account, or any other reason. Notice of the amount of the fee to be charged shall be posted in public view in the Tax Office.

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#### **109.06 COLLECTION AT SOURCE**

- A. Each employer within or doing business within Holland who employs one or more persons on an income, qualifying wage, commission or other compensation basis shall, at the time of payment thereof, deduct the tax imposed at Section [109.03](#) from the income, qualifying wages, commissions or other compensation earned or received by Holland residents and shall deduct the tax imposed at Section [109.03](#) from the income, qualifying wages, commissions or other compensation earned or received within Holland by nonresidents.
- B. Each such employer shall on or before the last day of the month following each calendar quarter, make a return and remit to Holland the tax hereby required to be withheld. Such return shall be on a form or forms prescribed by or acceptable to the Tax Administrator and shall be subject to the Ordinances, policies and administrative actions prescribed therefore by the Tax Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such taxes have in fact been withheld.
- C. Such employer in collecting such tax shall be deemed to hold the same, until payment is made by such employer to the Village of Holland, as a trustee for the benefit of the Village of Holland and any such tax collected by such employer from his employees shall, until the same is paid to the Village of Holland, be deemed a trust fund in the hands of such employer.
- D. The officer or employee of such employer having control or supervision or charged with the responsibility of withholding the tax, and/or filing the return and/or making the payment, shall be personally liable for failure to file the return or pay the tax, penalties, or interest due as required herein. The dissolution, bankruptcy or reorganization of any such employer does not discharge an officer's or employee's liability for a prior failure of such business to file a return or pay taxes, penalties, or interest due.
- E. On or before the last day of February following any calendar year, such employer shall file with the Tax Administrator an annual reconciliation return along with an information return for each employee from whom Holland income tax has been or should have been withheld, showing the name, address and Social Security number of the employee, the total amount of compensation paid during the year and the amount of municipal income tax withheld from the employee with the municipality for which said tax was withheld identified. The information return shall also include all of the information required to be reported by the employer to the IRS on a W-2 form. At the time of the filing the annual reconciliation return the employer shall pay over any amounts deducted or which should have been deducted during the preceding year but which was not remitted. The annual



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reconciliation form shall be obtained from the Tax Administrator.

- F. All individuals, businesses, employers, brokers or others who are required under the Internal Revenue Code to furnish forms 1099 to IRS for individuals or businesses to whom or which they have non-employee compensation shall furnish copies of the said form 1099's to the Tax Administrator or in lieu thereof, a list containing the same information as required by IRS on the 1099's on or before the due date for such forms 1099's as established by IRS. Failure to provide the foregoing information may result in any deduction for payment by the taxpayer taken on the taxpayers return to be disallowed.
- G. Every employer shall retain all records necessary to compute withholding taxes due Holland for a period of six (6) years from the date the Reconciliation Form, W-2 Forms, and 1099 forms are filed.
- H. All returns and forms required to be filed by an employer are considered received on the date postmarked by the United States Postal Service, or on the date delivered without mailing by the taxpayer to the Holland Tax Office.
- I. The failure of any employer to receive or procure a return, or other required form shall not excuse the employer from preparing any information return, withholding tax returns or from filing such forms or from paying the tax due.
- J. Payments received for withholding taxes due shall be applied first to penalties due, then to interest due, and then to taxes due.

#### **109.07 DECLARATIONS**

- A. Every person who anticipates any taxable income, in whole or in part, which is not subject to Section [109.06](#) hereof, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section [109.03](#) hereof shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any.
- B.
  - 1. Such declaration shall be filed on or before April 15<sup>th</sup> of each year during the life of this chapter, or on or before the federal filing date if it is other than April 15<sup>th</sup>.
  - 2. Those taxpayers reporting on a fiscal year basis shall file a declaration within three (3) months and fifteen (15) days after the beginning of each fiscal year or period, or on or before the federal filing date if it is other than the 15<sup>th</sup> day of the fourth month from the end of such fiscal year or period.

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- C. 1. Such declarations shall be filed upon a form furnished by, or obtainable from the Tax Administrator, or on an acceptable generic form as defined in this chapter. Credit may be taken for Village of Holland income tax to be withheld, if any, from any portion of such income. In addition, credit may be taken for tax payable to other taxing municipalities in accordance with the provisions of Section 109.15 hereof.
2. The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment date as provided herein.
- D. 1. The taxpayer making the declaration shall, at the time of the filing thereof, pay to the Tax Administrator at least twenty-two and one-half percent (22 ½%) of the estimated annual tax after deducting:
- a. Any portion of such tax to be deducted or withheld at the source pursuant to Section 109.06 hereof;
  - b. Any credits allowable under the provisions of Section 109.15 hereof; and
  - c. Any overpayment of previous year's tax liability that the taxpayer has not elected to have refunded.
2. At least a similar amount shall be paid on or before the last day of the seventh (7<sup>th</sup>), tenth (10<sup>th</sup>), and the thirteenth (13<sup>th</sup>) months after the beginning of the taxpayer's taxable year, provided that in case an amended declaration has been duly filed, or the taxpayer is taxed for a portion of the year only, the unpaid balance shall be paid in equal installments on or before the remaining payment dates.
3. The declarations for the 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> quarters shall be due on July 31<sup>st</sup> and October 31<sup>st</sup> of the current year and on January 31<sup>st</sup> of the subsequent year. The amounts due on those dates are not to exceed forty-five percent (45%), sixty-seven and one-half percent (67 ½%) and ninety percent (90%) respectively of the tax estimated to be due. (O.R.C. 718.08)
- E. Effective January 1, 2001, no penalty or interest will be assessed for late payment or nonpayment of estimated taxes if the taxpayer was not domiciled in Holland on the 1<sup>st</sup> day of January of the current calendar year or if the tax payer has paid estimate payments equaling one hundred percent (100%) of the taxpayer's tax liability for the immediately preceding tax year, provided that the immediately preceding tax year reflected a 12-month tax period and the taxpayer filed a return

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for the immediately preceding year has remitted an amount equal to ninety percent (90%) of the final tax liability for the tax year due on or before the federal annual return filing date of the current year.

#### **109.08 DUTIES OF THE TAX ADMINISTRATOR**

- A. 1. It shall be the duty of the Tax Administrator to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers; to keep an accurate record thereof, and to report all monies received.
2. It shall be the duty of the Tax Administrator to enforce payment of all taxes owing Holland, to keep accurate records for a minimum of six (6) 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 thereof.
- B. The Tax Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Tax Administrator that, due to certain hardship conditions, he or she is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him or her under this chapter. Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections [109.10](#) and [109.12](#) shall apply.
- C. In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Tax Administrator may assess the amount of tax appearing to be due Holland from the taxpayer and shall send to such taxpayer by regular mail a written statement showing the amount of tax so determined, together with interest and penalties thereon. If a taxpayer fails to respond to the assessment of tax within 30 days from the postmarked date of the assessment it shall become due and payable and collectible as are other unpaid taxes.

#### **109.09 INVESTIGATIVE POWERS OF THE TAX ADMINISTRATOR; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION**

- A. The Tax Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and federal and State income tax returns of any employer or of any taxpayer or person subject to, or whom the Tax Administrator believes is subject to the provisions of the 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

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employer, taxpayer or supposed taxpayer, is hereby directed and required to furnish, within ten (10) calendar days following a written request by the Tax Administrator, or his duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

- B. The Tax Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or should have been returned for taxation hereunder or any transaction tending to affect such income and for this purpose may compel the production of books, papers, records and federal and State income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.
- C. The refusal to produce books, papers, records and/or federal and/or State income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this chapter or with an order or subpoena of the Tax Administrator authorized hereby shall be deemed a violation of the chapter, punishable as provided in Section [109.12](#) hereof.
- D. Any information gained as a result of any returns, investigations, hearings, records or verifications required or authorized by this chapter shall be confidential, except for official purposes which include the exchange of information with other tax authorities or except in accordance with proper judicial order. Any person divulging such information in violation of this chapter, shall, upon conviction thereof, be deemed guilty of a third degree misdemeanor (i.e., a fine of up to five hundred dollars (\$500) and imprisonment of not more than sixty (60) days. Each disclosure shall constitute a separate offense. In addition to the above penalty, any employee of the Village of Holland who violates the provisions of this Section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.
- E. Every taxpayer shall retain all records necessary to compute his tax liability for a period of six (6) years from the date his return is filed, or the withholding taxes are paid.

#### **109.10 INTEREST AND PENALTIES**

- A. All taxes imposed, including estimated taxes, and all monies withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of one and one-half percent (1 ½%) per month or fraction of a month thereof.

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- B. In addition to interest as provided in paragraph (a) hereof, penalties based on the unpaid tax are hereby imposed as follows:
1. For failure to pay taxes due – other than taxes withheld; two percent (2%) per month or fraction of a month thereof.
  2. For failure to remit taxes withheld from employees; three percent (3%) per month or fraction of a month thereof.
  3. For failure to file any return which is required to be filed under the provisions of this chapter within the time prescribed for its filing the sum of ten dollars (\$10.00) regardless of whether or not any tax is due.
- C. A penalty shall not be assessed on an additional tax assessment made by the Tax Administrator when a return has been filed in good faith as determined by the Tax Administrator and the tax paid thereon within the time prescribed by the Tax Administrator; and provided, further, that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment against a taxpayer by the Tax administrator resulting from a federal audit, provided an amended return is filed and the additional tax is paid within three months after a final determination of the federal tax liability.
- D. The Tax Administrator shall have the authority to reduce or abate any interest or penalty, or both, imposed by this Section.
- E. Upon recommendation of the Tax Administrator, the Board of Review may abate penalty or interest, or both, or upon any appeal from the refusal of the Tax Administrator to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both.

#### **109.11 COLLECTION OF UNPAID TAXES; 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. Any action to collect such tax shall be commenced within three (3) years after the tax was due or the return was filed, whichever is later. However, In the case of fraud, omission of 25% or more of income subject to this tax, or failure to file a return, all additional assessments shall be made and all prosecutions to recover Municipal income taxes and penalties and interest thereon shall be brought within six (6) years after the tax was due or the return was filed, whichever is later. 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 Tax Administrator shall be one (1)

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year from the time of the final determination of the federal tax liability.

- B. Prosecutions for an offense made punishable under this Ordinance shall be commenced within three (3) years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of the compensation or net profits required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense.
- C. Taxes erroneously paid shall not be refunded, unless a claim for a refund is properly made. Claims for refund of municipal income taxes must be brought within three years after the tax was paid or the return was filed, whichever is later. In addition, the following shall apply regarding refunds of tax withheld from non-qualified deferred compensation plans (NDCP):
1. A taxpayer may be eligible for a refund if the taxpayer has suffered a loss from a NDCP. The loss will be considered sustained only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to the NDCP. Full loss is sustained if no distribution of money and property will be made by the NDCP.
  2. A taxpayer who receives income as a result of payments from a NDCP, and that income is less than the amount of income deferred to the NDCP and upon which municipal tax was withheld, then a refund will be issued on the amount representing the difference between the deferred income that was taxed and the income received from the NDCP. If different tax rates applied to the tax years in which deferrals, a weighted average of the different tax rates will be used to compute the refund amount.
  3. Refunds shall be allowed only if the loss is attributable to the bankruptcy of the employer who had established the NDCP, or the employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified compensation.
- D. Income tax that has been deposited with the Village of Holland, but should have been deposited with another municipality, is allowable by the Village of Holland as a refund but is subject to the three-year limitation on refunds. Income tax that should have been deposited with the Village of Holland, but was deposited with another municipality, shall be subject to recovery by the Village of Holland. The Village of Holland will allow a non-refundable credit for any amount owed the Village of Holland that is in excess of the amount to be refunded by the other municipality, as long as the tax rate of the other municipality is the same or higher than the Village of Holland's tax rate. If the Village of Holland's tax rate is higher, the tax representing the net difference of the rates is also subject to collection by the Village of Holland.

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- E. Amounts of less than one dollar (\$1.00) shall not be refunded or collected if the total tax due does not exceed this amount.

#### **109.12 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 Tax Administrator; or
  - 5. Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his books, records, papers and federal and State income tax returns relating to the income or net profits to a taxpayer; or
  - 6. Fail to appear before the Tax Administrator and to produce his books, records, papers or federal and State income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or
  - 7. Refuse to disclose to the Tax 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 Tax Administrator authorized hereby; or
  - 9. Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify an employer of any change in residence address and date thereof; or
  - 10. Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and the Village of Holland tax withheld, or to knowingly give the Tax Administrator false information; or
  - 11. Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter;.

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- B. Whoever violates one or more of the provisions of Section 109.12 [A](#) shall be guilty of a 3<sup>rd</sup> degree misdemeanor (i.e., a fine of up to five hundred dollars (\$500) and imprisonment of not more than sixty (60) days).
- C. All prosecutions under this Section must be commenced in accordance with O.R.C. 718.12.
- D. 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 forms, or from paying the tax.

#### **109.13 BOARD OF REVIEW**

- A. A Board of Review, consisting of the Village Solicitor as Chairman, the Clerk-Treasurer as Secretary and the President of Council is hereby created. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions.

Any hearing by the Board may be conducted privately and the provisions of Section [109.09](#) hereof 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 of Review.

- B. The Board shall hear and pass on appeals from any ruling or decision of the Tax Administrator, and, at the request of the taxpayer or Tax Administrator, it is empowered to substitute alternate methods of allocation.
- C. Any person dissatisfied with any ruling of the Tax Administrator which is made under the authority conferred by this chapter at Section 109.08 [B](#), and who has filed the required returns or other documents pertaining to the contested issue, may appeal therefrom in writing to the Board of Review within thirty (30) calendar days from the issuance of such ruling or decision by the Tax Administrator. The appeal shall be in writing and shall state why the decision should be deemed incorrect or unlawful. The Board must schedule a hearing within forty-five (45) calendar days of receiving the appeal unless the taxpayer expressly waives the hearing and chooses instead to let the Board render its decision on the writings submitted by the Tax Administrator and the Appellant. If the taxpayer does not waive the hearing, the taxpayer is entitled to appear before the Board and bring with him or her representation of his or her choosing. The Board must issue a written decision within ninety (90) calendar days after the final hearing and send a notice of its decision to the taxpayer within fifteen (15) calendar days after issuing the decision. If the Board fails to comply with the provisions of this Section, the taxpayer's appeal will default in favor of the taxpayer. The Board's records of the hearing are not open to public inspection



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nor are the meetings subject to the State open meetings law.

- D. Whenever the Tax Administrator issues a decision that is appealable, the Tax Administrator must inform the taxpayer of their right to appeal and the manner in which the appeal is to be filed.
- E. For matters relating to tax years beginning on or after January 1, 2004, any ruling or decision of the Board of Appeal may be appealed to a court of competent jurisdiction or to the State Board of Tax Appeals.

#### **109.14 ALLOCATION OF INCOME TAX REVENUES**

All taxes levied and collected under this chapter shall be deposited in and credited to the General Fund of the Village of Holland in accordance with law, provided however that transfer of such revenues may be made to another fund for the purpose set forth in Section [109.01](#) above.

#### **109.15 CREDITS FOR TAX PAID TO OTHER MUNICIPALITIES AND/OR JOINT ECONOMIC DEVELOPMENT ZONES**

It is the intent of this Section that a taxpayer, subject to tax in more than one municipality on the same income, who has complied with the provisions hereof and filed complete tax returns on a timely basis shall not be required by this chapter to pay a total municipal income tax on such income greater than the tax imposed at the higher rate.

Accordingly, notwithstanding any other provisions of this chapter:

- A. Residents of the Village.

When a resident of Holland is subject to and has paid or has acknowledged liability for a municipal income tax in another municipality and/or Joint Economic Development Zone on the same income taxable under this chapter, and such other municipality and/or Joint Economic Development Zone does not allow a credit to its non-residents, such Holland residents may claim a credit of the amount of such tax paid to such other municipality and/or Joint Economic Development Zone, but not in excess of the tax assessed by this chapter.

- B. The credits provided for in subsection A will not be allowed unless the same are claimed in a timely return or form acceptable to and filed with the Tax Administrator of Taxation, or on an acceptable generic form as defined in this chapter. In the event a taxpayer fails, neglects or refuses to file such timely return or form he shall not be entitled to such credit and shall be liable for the full amount of tax assessed by this chapter, together with such interest and penalties, both civil and criminal, as are prescribed in this chapter.

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- C. If the Holland resident has had tax paid to or has tax withheld in another municipality, the Holland resident may claim credit for a refund to which the Holland resident may be entitled from the other municipality. The taxpayer shall be liable to the Village of Holland for an amount by which the claimed credit exceeds the amount recovered on such assignment by the Village of Holland, together with penalty and interest. If satisfactory evidence is offered, however, that the taxpayer is entitled to the claim covered by the assignment, such taxpayer shall not be deprived of credit therefore because of fault or neglect on the part of either municipality.
- D. Assignment of any claim for refund to which a Holland resident may be entitled from another municipality shall be tentatively adopted as payment of that portion of Holland income tax represented by such assignment; provided that an overpayment resulting from the credit allowed by reason of such assignment shall not be refunded until such assignment has been accepted for payment by such other municipality.
- E. No credit shall be given for any tax paid to a school district.

#### **109.16 SAVING CLAUSE**

- A. If any provision, sentence, clause, section or part of this chapter is found to be unconstitutional, illegal or invalid, such unconstitutionally, illegality or invalidity shall affect only that particular provision, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of the council that this chapter would have been adopted has such unconstitutional, illegal or invalid provision, sentence, clause, section or part thereof not been included herein.
- B. All taxes, penalties, and interest remaining due and all tax returns which are due but unfiled under the provisions of all prior chapters relating to the imposition and collection of taxes and filing of tax returns, shall remain due and payable under this chapter. All of the provisions of prior chapters shall remain in full force and effect until the provisions of this chapter become effective.

#### **109.17 REPORTING NEW TENANTS**

Commencing May 1, 1994, and thereafter: Within thirty (30) days after a new tenant occupies rental property of any kind within the Village of Holland, Ohio, all rental property owners shall file with the Tax Administrator a report showing the names and addresses of each new tenant who occupies the rental property. If available, the rental property owner shall also

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report the new tenants' telephone number and place of employment to the Tax Administrator.

#### **109.18 REPORTING VACATED TENANTS**

Commencing May 1, 1994, and thereafter: Within thirty (30) days after a tenant vacates rental property, the property owner shall file a report with the Tax Administrator showing the date the tenant vacated the property and the name of each vacated tenant. If available, the rental property owner shall also report the new address of the vacating tenant.

#### **109.19 COMPLETION OF QUESTIONNAIRE BY TENANTS**

- A. Commencing May 1, 1994 and thereafter the Tax Administrator for the Village of Holland will forward a questionnaire to each tenant newly residing within the Village.
- B. Each tenant who receives an individual or business questionnaire shall within thirty (30) days after receipt, complete the questionnaire and return it to the Tax Administrator.
- C. Whoever violates subsection B shall be guilty of a minor misdemeanor (which is a fine that does not exceed a maximum of one hundred fifty dollars (\$150.00)).

#### **109.99 PENALTY**

- A. Whoever violates any of the provisions of this chapter, for which a penalty is not established herein, shall be guilty of a 3<sup>rd</sup> degree misdemeanor (i.e., a fine of up to five hundred dollars (\$500) and imprisonment of not more than sixty (60) days).
- B. Whoever violates Sections [109.17](#) and/or [109.18](#) is guilty of a minor misdemeanor on the first offense; a second offense within one year after the first offense is a misdemeanor of the fourth degree (i.e., a fine of up to two hundred fifty dollars (\$250) and imprisonment of not more than thirty (30) days); a third and each subsequent offense within one year after the first offense is a misdemeanor of the third degree (i.e., a fine of up to five hundred dollars (\$500) and imprisonment of not more than sixty (60) days).

[ORC 718](#)