

CHAPTER 151

Income Tax

EDITOR'S NOTE: The voters at the general election of November 3, 1970, approved the increase in the rate of the income tax from one percent to one and seven-tenths percent. The Tax Commissioner, subject to approval by the Board of Review, has promulgated rules and regulations relating to the collection and payment of taxes and the administration and enforcement thereof. Copies of such regulations are available at the Village Hall.

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CROSS REFERENCES

Power to levy income tax - see Ohio Const., Art. XVIII, Sec. 3

Payroll deductions - see Ohio R.C. 9.42

Municipal income taxes - see Ohio R.C. Ch. 718

Tax Commissioner petty cash fund - see ADM. 123.06(a)

151.01 PURPOSE.

To provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities, and capital improvements of the Village, there is levied a tax on qualifying wages, commissions and other compensation, on net profits and other taxable income as hereinafter provided.

(Ord. 2005-2. Passed 3-28-05.)

151.02 DEFINITIONS.

For the purpose of this chapter the following words and phrases shall have the following meanings ascribed to them respectively, except as and if the context clearly indicates or requires a different meaning.

(a) "Adjusted federal taxable income" Any corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute adjusted federal taxable income as if the passthrough entity was a C corporation. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code Section 5745.03 or to the net profit from a sole proprietorship.

(b) "Association" A partnership, limited partnership, limited liability company, S corporation or any form of unincorporated enterprise, owned by one (1) or more persons.

- (c) "Board of Review" The Board created by and constituted as provided for in Section 151.13.
- (d) "Business" An enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, including but not limited to the renting or leasing of property, real, personal or mixed.
- (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) "Domicile" A principal residence that the taxpayer intends to use for an indefinite time and to which whenever he is absent he intends to return. A taxpayer has only one domicile even though he may have more than one residence.
- (g) "Employee" One who works for wages, salary, commission or other types of compensation in the services of an employer.
- (h) "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.
- (i) "Fiscal year" An accounting period of twelve (12) months or less ending on any day other than December 31.
- (j) "Form 2106" Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (k) "Generic form" An electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income. Any municipality that requires taxpayers to file income tax returns, reports, or other documents shall accept for filing a generic form of such a return, report, or document if the generic form, once completed and filed, contains all of the information required to be submitted with the municipality's prescribed returns, reports, or documents.
- (l) "Gross receipts" Total income of taxpayers from whatever source derived.
- (m) "Income from a pass-through entity" Partnership income of partners, membership interest of members of a limited liability company, distributive shares of shareholders of an S corporation, or other distributive or proportionate ownership shares of income from other pass-through entities.
- (n) "Intangible income" Income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange' or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, tradenames, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.
- (o) "Internal Revenue Code" The Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.
- (p) "Internet" The international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork known as the world wide web.
- (q) "Joint Economic Development District" Districts created under the Ohio Revised Code Sections 715.70 through 715.83, as amended from time to time.
- (r) "Limited liability company" A limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.
- (s) "Municipality" The Village of Golf Manor, Ohio.
- (t) "Net profit" For a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit, other than

amounts described in Section 151.03(f), required to be reported on Schedule C, Schedule E, or Schedule F.

(u) "Nonqualified deferred compensation plan" A compensation plan described in Section 3121 (v)(2)(C) of the Internal Revenue Code.

(v) "Nonresident" An individual domiciled outside the Village.

(w) "Nonresident incorporated business entity" An incorporated business entity not having an office or place of business within the municipality.

(x) "Nonresident unincorporated business entity" An unincorporated business entity not having an office or place of business within the municipality.

(y) "Other Payer" Any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual.

(z) "Owner" A partner of a partnership, a member of a limited liability company, a shareholder of an S corporation, or other person with an ownership interest in a pass-through entity.

(aa) "Owner's proportionate share" With respect to each owner of a pass-through entity, means the ratio of (a) the owner's income from the pass-through entity that is subject to taxation by the municipal corporation, to (b) the total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.

(bb) "Partnership" An association of two or more persons to carry-on as co-owners a business for profit and including such an association that has limited liability under Revised Code § 1775.61, its successor statute, or similar statute of another state.

(cc) "Pass-through entity" A partnership, limited liability company, S corporation, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.

(dd) "Person" Individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity. Whenever used in any clause prescribing and imposing a penalty, the term "person", as applied to an unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

(ee) "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.

(ff) "Principal place of business" In the case of an employer having headquarters' activities at a place of business within a taxing municipality, the place of business at which the headquarters is situated. In the case of any employer not having its headquarters' activities at a place of business within a taxing municipality, the term means the largest place of business located in a taxing municipality.

(gg) "Qualified plan" A retirement plan satisfying the requirements under Section 401 of the Internal Revenue Code as amended.

(hh) "Qualifying wages" Wages, as defined in Section 3121 (a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with Section 718.03(A) of the Ohio Revised Code.

(ii) "Resident" An individual domiciled in the Village.

(jj) "Resident incorporated business entity" An incorporated business entity whose office, place of operations or business situs is within the municipality.

(kk) "Resident unincorporated business entity" An unincorporated business entity having an office or place of business within the municipality.

(ll) "Return Preparer" Any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer.

(mm) "Schedule C" Internal Revenue Service Schedule C filed by a taxpayer pursuant to the Internal Revenue Code.

(nn) "Schedule E" Internal Revenue Service Schedule E filed by a taxpayer pursuant to the Internal Revenue Code.

(oo) "Schedule F" Internal Revenue Service Schedule F filed by a taxpayer pursuant to the Internal Revenue Code.

(pp) "S corporation" A corporation that has made an election under subchapter S of Chapter 1 of subtitle A of the Internal Revenue Code for its taxable year.

(qq) "Tax Commissioner" The Tax Commissioner of the Village or the person executing the duties of the Commissioner.

(rr) "Taxable income" Qualifying wages paid by an employer or employers, compensation for personal services, other income defined by statute as taxable, and/or adjusted federal taxable income from the operation of a business, profession, or other enterprise or activity adjusted in accordance with the provisions of this chapter.

(ss) "Taxable year" The calendar year, or the fiscal year upon the basis of which net profits are to be computed under this chapter and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.

(tt) "Taxing municipality" A municipality levying a tax on income earned by nonresidents working within such municipality or on income earned by its residents.

(uu) "Taxpayer." A person subject to a tax on income levied by a municipal corporation. "Taxpayer" does not include any person that is a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary.

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

(Ord. 2005-2. Passed 3-28-05.)

151.03 IMPOSITION OF TAX.

(a) Basis of Imposition. An annual tax, for the purposes specified in Section 151.01 is levied at the rate of 1.7% per annum upon the following:

(1) On all qualifying wages, commissions, other compensation, and other taxable income earned or received by residents of the municipality.

(2) On all qualifying wages, commissions, other compensation, and other taxable income earned or received by non-residents for work done or services performed or rendered in the municipality.

(3) On the portion attributable to the municipality of the net profits earned by all resident unincorporated businesses, professions, or other activities derived from sales made, work done or services performed or rendered, and business or other activities conducted in the municipality.

(4) On the portion of the distributive share of the net profits earned during the effective period of this chapter by a resident partner or owner of a resident unincorporated business entity not attributable to the municipality and not levied against such unincorporated business entity.

(5) On the portion attributable to the municipality of the net profits by all nonresident unincorporated businesses, professions, or other activities, derived from work done or services performed or rendered, and business or other activities conducted in the municipality, whether or not such person, other unincorporated entity, profession or other entity has an office or place of business in the municipality.

On the portion of the distributive share of the net profits earned by a resident owner of a nonresident unincorporated business entity not

attributable to the Village, and not levied against such unincorporated business entity.

(6) On the portion attributable to the municipality of the net profits earned by all corporations derived from sales made, work done or services performed or rendered, and business or other activities conducted in the municipality whether or not such corporations have an office or place of business in the municipality.

(b) Business Both In and Outside the Municipal Boundaries. This section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745, of the Ohio Revised Code. Except as otherwise provided in subsection (b)(1)D. hereof, net profit from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having a taxable situs in such municipal corporation for purposes of municipal income taxation in the same proportion as the average ratio of the following:

(1) Multiply the entire net profits of the business by a business apportionment percentage formula to be determined by:

A. The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in the municipality during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

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

B. Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in such municipal corporation to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the municipal corporation under Section 718.011 of the Ohio Revised Code;

C. Gross receipts of the business or profession from sales made in such municipal corporation during the taxable period to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

D. Adding together the percentages determined in accordance with subsections A. B. and C. above, or such of the aforesaid percentages as are applicable to the particular taxpayer, and dividing the total so obtained by the number of percentages used in deriving said total.

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

2. Provided that in the event a just and equitable result cannot be obtained under the business apportionment percentage formula provided for herein, the Board of Review, upon application of the taxpayer or the Tax Commissioner, shall, under uniform regulation adopted by the Board, have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.

(c) As used in subsection (b) hereof, "sales made in such municipal corporation" means:

(1) All sales of tangible personal property delivered within such municipal corporation regardless of where title passes if shipped or delivered from a stock of goods within such municipal corporation;

(2) All sales of tangible personal property delivered within such municipal corporation regardless of where title passes even though transported from a point outside such municipal corporation if the taxpayer is regularly engaged through its own employees and/or agents in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion;

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

(d) Net Operating Loss (NOL) Carry Forward.

(1) The portion of a net operating loss sustained in any taxable year apportioned to the municipality may be applied against the portion of the profit of succeeding tax years apportioned to the municipality, until exhausted, but in no event for more than the five (5) taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

(2) The portion of a net operating loss sustained shall be apportioned to the municipality in the same manner as provided herein for apportioning net profits to the municipality.

(3) The Tax Commissioner shall provide by rules and regulations the manner in which such net operating loss carry-forward shall be determined.

(4) The net operating loss of a taxpayer that loses its legal identity, by any means such as merger or consolidation, shall not be allowed as a carry forward loss deduction to the surviving or new taxpayer.

(5) The net operating loss sustained by a business or profession is not deductible from employee earnings, but may be carried forward as provided in subsection (d)(1). However, if a taxpayer is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity (except any portion of a loss reportable for municipal income tax purposes to another municipality) may be used to offset the profits of another for purposes of arriving at overall net profits.

(e) Consolidated Returns.

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

(2) 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, the Tax Commissioner shall require such information, in addition to the return hereinafter provided for, as he may deem necessary to ascertain whether net profits are properly allocated to the municipality. If the Tax Commissioner finds net profits are not properly allocated to the municipality by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, he may require the filing of a consolidated return or adjust such transactions so as to produce a fair and proper allocation of net profits to the municipality.

(f) Exceptions. The provisions of the chapter shall not be construed as levying a tax upon the following:

(1) Proceeds from welfare benefits, unemployment insurance benefits, pensions, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.

(2) Proceeds of insurance, annuities, Workers' Compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages.

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

(4) Gains from involuntary conversion, cancellation of indebtedness, interest on federal obligations and income of a decedent's estate during the period of administration (except such income from the operation of a business).

(5) Spousal support.

- (6) Compensation for damage to property by way of insurance or otherwise.
- (7) Interest and dividends from intangible property.
- (8) Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard (Ohio Revised Code 718.01).

(9) Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Ohio Revised Code 718.01 to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.

(10) Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.

(11) In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income producing business located both within and without the corporate limits of the municipality, it shall calculate its income apportioned to the municipality under the method or methods provided above.

(12) If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from municipal income tax.

(13) The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to Section 107 of the Internal Revenue Code.

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

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

(16) The Municipality shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the municipality on twelve (12) or fewer days in a calendar year unless one of the following applies:

A. The individual is an employee of another person, the principal place of business of the individual's employer is located in another municipality in Ohio that imposes a tax applying to compensation paid to the individual for services paid on those days; and the individual is not liable to that other municipality for tax on the compensation paid for such services.

B. The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by the municipality.

(17) The income of a public utility, when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the Ohio Revised Code, except a municipal corporation may tax the following, subject to Chapter 5745 of the Ohio Revised Code.

A. The income of an electric company or combined company;

B. The income of a telephone company.

As used in subsection (f)(17) of this section, "combined company", "electric company", and "telephone company" have the same meanings as in Section 5727.01 of the Ohio Revised Code.

(18) Generally the above noted items in this section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation shall be taxable.

(Ord. 2005-2. Passed 3-28-05.)

151.04 EFFECTIVE PERIOD.

The tax shall be levied, collected and paid with respect to the income, qualifying wages, commissions, and other compensation earned, and shall be levied with respect to the net profits of the persons, businesses, professions, or other activities earned or received from and after the effective date of this Tax Code.

(Ord. 2005-2. Passed 3-28-05.)

151.05 RETURN AND PAYMENT OF TAX.

(a) Dates and Exemptions.

(1) On or before April 30 in each year prior to the tax year 2004 and April 15 of each year thereafter, the following persons shall make and file a return with the Tax Commissioner:

A. Each person who engages in business or other activity, or whose qualifying wages, commissions, other compensation, and other taxable income is subject to the tax imposed by this chapter, whether or not a tax is due thereon.

B. Each resident who engages in business or other activity, or whose qualifying wages, commissions, other compensation and other taxable income is subject to the tax imposed by this chapter, whether or not a tax is due thereon.

(2) When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the fifteenth (15th) day of the fourth (4th) month following the end of such fiscal year or period. The Tax Commissioner is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of municipal 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 Tax Commissioner may be accepted as the return required of any employee whose sole income, subject to tax under this Tax Code, is such qualifying wage, commissions, other compensation, and other taxable income.

(3) Filings, including requests for extensions, must be received in the office of the Tax Commissioner by the due date.

(b) A husband and wife may file either separate returns or a joint return for municipal purposes, even though one of the spouses has neither taxable income nor deductions included on the municipal return regardless of whether their federal and state returns were filed separately or jointly. If a joint Village return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several.

(c) The return shall be filed with the Tax Commissioner on a form or forms furnished by or obtainable upon request from the Tax Commissioner; or on a generic form, if the generic form, when completed and filed, contains all of the information required to be submitted with the municipality's prescribed return and, if the taxpayer or return preparer filing the generic form otherwise complies with the Tax Code governing the filing of returns.

(d) The return shall set forth:

(1) The aggregate amounts of qualifying wages, commissions, and other compensation earned, received, apportioned or set aside, other income defined by statute as taxable, and gross income from any 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; and

(2) The amount of the tax imposed by this chapter on such earnings and profits; and

(3) Such other pertinent statements, information returns, copies of federal or state tax returns and/or schedules, or other information as the Tax Commissioner may require, including a statement that the figures used in the return are the figures used in the return for federal income tax, adjusted to set forth only such income as is taxable under the provisions of this chapter.

(e) Extensions.

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

(2) Any taxpayer not required to file a federal income tax return may request an extension for filing the municipality's tax return in writing.

(3) The request for extension must be filed on or before the original due date for the annual return. If the request is granted, the extended due date of the municipal income tax return shall be the last day of the month following the month to which the due date of the federal income tax return has been extended.

(4) The Tax Commissioner may deny a taxpayer's request for extension if the taxpayer:

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

(5) The granting of an extension for filing a municipal income tax return does not extend the due date as provided in this section for paying of the tax; hence, penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by Section 151.10. Interest but no penalty shall be assessed in those cases in which the return is filed and the final tax paid within the extension period provided all other filing and payment requirements of the Tax Code have been met. Any extension by the Tax Commissioner shall be granted upon the condition that declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted.

(f) Payments with Returns.

(1) The taxpayer making a return shall at the time of the filing thereof pay to the Tax Commissioner the amount of taxes shown as due thereon; provided that where the source, pursuant to the provisions of Section 151.06 of this chapter; or where any portion of the tax shall have been paid by the taxpayer pursuant to the provisions of Section 151.07 of this chapter, or where an income tax, creditable against the municipal tax pursuant to Section 151.12 hereof has been paid to another municipality, credit for 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 filing said return.

(2) A taxpayer who has overpaid the amount of tax to which the municipality is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment, or part thereof, shall be refunded, provided that no additional taxes or refunds of less than \$1.01 shall be collected or refunded.

(g) Amended Returns.

(1) Where necessary, an amended return shall be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements

and/or limitations contained in Sections 151.11 and 151.12. The Tax Commissioner shall provide by regulation the format in which such amended return shall be filed. 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 municipal tax liability, such taxpayer shall make and file an amended municipal return showing income subject to the municipality 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.

(Ord. 2005-2. Passed 3-28-05.)

151.06 COLLECTION AT THE SOURCE.

(a) Withholding by Employer. Each employer within, or doing business within, the Municipality who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct, when such salary, wage, commission or other compensation is paid, allocated or set aside, the tax of one and seven tenths percent (1.7%) on the qualifying wages due by such employer to each such employee and shall make a return and payment to the Tax Commissioner the amount of taxes so deducted.

(1) Employers who withhold taxes imposed by this chapter which exceed \$200.00 per month or \$2,400 per year for all employees shall, on or before the fifteenth day of each month make a return and pay to the Tax Commissioner the amount of taxes deducted during the preceding month.

(2) All other employers shall, on or before the last day of April, July, October, and January of each year make a return and pay to the Tax Commissioner the amount of taxes deducted during the preceding calendar quarter. The Tax Commissioner may revoke the approval of quarterly filing and payments whenever the Tax Commissioner has reason to believe that the conditions for granting such authorization have changed, were judged incorrectly, were not met, or when it is in the best interest of the Municipality to do so. Notice of withdrawal shall be made in writing and, in such case, the employer must begin to file in accordance with this section.

(3) Each 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. Nothing in this section prohibits an employer from withholding tax on a basis greater than qualifying wages.

(4) An employer is not required to make any withholding with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option has been issued.

(b) (1) An employee is not relieved from liability for a tax by the failure of the employer to withhold the tax as required by a municipal corporation or by the employer's exemption from the requirement to withhold the tax.

(2) The failure of an employer to remit to the municipal corporation the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld.

(c) Employer Considered as Trustee. Each employer in collecting said tax shall be deemed to hold the same, until payment is made by such employer to the municipality, as a trustee for the benefit of the municipality, and any such tax collected by such employer from his employees shall, until the same is paid to the municipality, be deemed a trust fund in the hands of such employer. Each employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such tax, in fact, has been withheld.

(d) Corporation Officers Personal Liability. Any person who is required to withhold tax from qualifying wages shall pay all such tax to the municipality in accordance with the provisions of

this section. In the event taxes withheld from the qualifying wages of employees are not paid to the municipality in accordance with the provisions of this section, all officers, members, managers, employees, and trustees having control or supervision of or charged with the responsibility of filing the return and making payment are jointly and severally personally liable for the tax not returned or paid to the municipality as well as any related interest and penalties, and are also liable under the provisions of Section 151.12 hereof. The dissolution, termination, or bankruptcy of a corporation, partnership, limited liability company, or business trust does not discharge an officer's, partner's, member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or pay said taxes.

(e) Employees Listings. Each employer shall file a withholding tax reconciliation (Form W-3) showing the sum total of all compensation paid all employees, the portion of which, (if any) was not subject to withholding along with an explanation for same, and the portion of which was subject to withholding, together with the amount of such withholdings remitted. Such return shall include information concerning each employee from whom the municipal tax was withheld, showing the name, address, zip code and social security number of each such employee, the total amount of compensation paid during the year and the amount of municipal tax withheld. If the total tax withheld from any employee included tax withheld and remitted to another municipality, the amount of same shall be separately shown on the return of information to the municipality concerning each employee. The withholding tax reconciliation shall be filed by each employer on or before February 28 following the end of such calendar year.

(f) In addition to the wage reporting requirements of this section, any person required by the Internal Revenue Service to report on Form 1099-Misc. payments to individuals not treated as employees for services performed shall also report such payments to the municipality when the services were performed in the municipality. The information may be submitted on a listing, and shall include the name, address and social security number (or federal identification number), and the amount of the payments made. Federal Form(s) 1099 may be submitted in lieu of such listing. The information shall be filed annually on or before February 28 following the end of such calendar year.

(g) Domestic Servants. No person shall be required to withhold the tax on the qualifying wages, commissions, other compensation and other taxable income paid domestic servants employed exclusively in or about such person's residence. However, such domestic servants shall be responsible for filing and paying their own returns and taxes.

(Ord. 2005-2. Passed 3-28-05.)

151.07 DECLARATIONS.

(a) Requirement for Filing. Every person who anticipates any taxable income which is not subject to Section 151.06 hereof, or engages in any business, profession, enterprise or activity resulting in income subject to the tax imposed by this chapter 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. Provided, however, if a person's income is wholly from qualifying wages from which the tax will be held and remitted to this municipality in accordance with Section 151.06, such person need not file a declaration.

(b) Dates for Filing.

(1) Such declaration shall be filed on or before April 15 of each year during the life of this chapter, or on or before the fifteenth (15th) day of the fourth (4th) month following the date the taxpayer first becomes subject to the provisions of this section.

(2) Those taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth (15th) day of the fourth (4th) month following the start of each fiscal year or period.

(c) Forms - Credit for Tax Withheld or Paid Another Community.

(1) The declaration shall be filed upon a form furnished by, obtainable from the Tax Commissioner or an acceptable generic form. Credit shall be taken for municipal tax to be withheld from any portion of such income. Credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality in accordance with Section 151.14.

(2) A declaration of estimated tax to be paid the municipality shall be accompanied by a payment of at least 1/4 of the estimated tax, less credit for taxes withheld or paid to another municipality, and at least a similar amount shall be paid on or before fifteenth (15th) day of the fourth (4th) month and the last day of the seventh, tenth and thirteenth months after the beginning of the tax year.

(d) Amended Declaration.

(1) A declaration may be amended at any time, provided that in case an amended declaration is filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(2) If it appears that the original declaration and accompanying payments made for such year underestimated the taxpayer's income by 30% or more, the difference between 70% of the taxpayer's tax liability and the amount of estimated tax he actually paid on or before December 31, or the date fixed by regulation, whichever is applicable, shall be subject to the interest and penalty provisions of Section 151.10 hereof.

(e) Annual Return Required. On or before the fifteenth (15th) day of the fourth month following the end of the calendar or fiscal year following that for which the declaration was filed, an annual return shall be filed and any balance which may be due the municipality shall be paid therewith in accordance with the provisions of Section 151.05 hereof.

(Ord. 2005-2. Passed 3-28-05.)

151.08 DUTIES OF TAX COMMISSIONER.

(a) Collection and Maintenance Responsibility.

(1) There is hereby created an income tax bureau for the administration of the provisions of this chapter. Such bureau shall consist of a Tax Commissioner, Deputy Tax Commissioner and such clerical personnel as may be determined to be necessary for the administration of this chapter. All such personnel shall be appointed by the Service Director except that the Tax Commissioner shall be appointed by the Mayor with the consent of the Council.

(2) It shall be the duty of the Tax Commissioner to collect and receive the tax imposed by this chapter in the manner prescribed therein, and to keep an accurate record thereof, and to report all monies so received.

(3) It shall be the duty of the Tax Commissioner to enforce payment of all income taxes owing the municipality, to keep accurate records for a minimum of six (6) years, showing the amount due from each taxpayer required to file a declaration or make any return, including a return of taxes withheld, and to show the date and amounts of payments thereof.

(b) Enforcement Authority. The Tax Commissioner is hereby charged with the enforcement of the provisions of this chapter, including the interpretation and enforcement of the rules and regulations, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations authorized or required by this chapter, relating to any matter or thing pertaining to the collection and payment of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the examination and correction of returns.

The Tax Commissioner, or any of his authorized agents, 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 Commissioner 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 this chapter. Failure to make any deferred

payment when due shall cause the total amount unpaid, including penalty and interest, to become payable on demand, and the provisions of Sections 151.10, 151.11 and 151.99 shall apply.

(c) Determination of Taxes. In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Tax Commissioner may determine the amount of tax appearing to be due the municipality from the taxpayer and may send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

(d) Compromise Authority. Subject to the consent of the Board of Review or pursuant to regulation approved by the Board of Review, the Tax Commissioner shall have the power to compromise any tax liability imposed by this chapter.

(Ord. 2005-2. Passed -3-29-02.)

151.09 INVESTIGATIVE POWERS OF THE TAX COMMISSIONER; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

(a) Examination of Taxpayers Records. The Tax Commissioner, or any of his authorized agents, is authorized to examine the books, papers, records and federal income tax returns of any employer, or taxpayer, or any person subject to, or whom the Tax Commissioner believes is subject to, the provisions of this chapter, for the purpose of verifying the accuracy of any return made, or if no return was made, to ascertain the tax or withholdings due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish, upon written request of the Tax Commissioner, or his duly authorized agent or employees, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(b) Investigative Questionnaires. The Tax Commissioner may require any taxpayer, or any person whom the Commissioner may reasonably presume to be required to file a return or pay a tax, to complete and return a questionnaire from which the Commissioner may determine whether such person shall be required to file a return or pay a tax. In said questionnaire the Commissioner may demand information concerning residency, income, sources of income, and any other information that bears upon the question of taxability.

(c) Appearance Orders to Taxpayers. The Tax Commissioner is hereby authorized to order any person, presumed to have knowledge of the facts, to appear at the office of the Tax Commissioner and to examine such person, under oath, concerning any income which was or should have been returned for taxation, or withheld, or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and federal, state, county and municipal 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.

(d) Result of Refusal to Submit Information. The refusal to produce books, papers, records and federal income tax returns, or to complete a taxpayer questionnaire, 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 section or with an order or subpoena of the Tax Commissioner authorized hereby, shall be deemed a violation of this chapter punishable as provided in Section 151.12 hereof.

(e) Retention of Records by Taxpayer. 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 taxes required to be withheld are paid.

(f) Confidential Nature of Information. Any information gained as a result of any returns, investigations, questionnaires, hearings or verifications required or authorized by this chapter shall be confidential, and no disclosure thereof shall be made except to municipal, county, state or

federal taxing agencies, or, except for official purposes as the Village Solicitor shall determine, or except in accordance with proper judicial order. Any person divulging such information in violation of this section shall be fined not more than one thousand dollars (\$1,000) and imprisoned not more than one hundred eighty days, or both, for each offense. Each disclosure shall constitute a separate offense. In addition to the above penalty, any employee of the municipality who violates the provisions of this section relative to the disclosure of confidential information may be subject to disciplinary action including immediate termination.

(Ord. 2005-2. Passed 3-28-05.)

151.10 INTEREST AND PENALTIES.

(a) Interest. All taxes imposed and monies withheld or required to be withheld by employers under the provisions of this chapter, remaining unpaid after they become due, shall bear interest at the rate of 1% per month.

(b) Penalties. In addition to interest as provided in subsection (a) hereof, penalties for failure to file tax returns in a timely manner, failure to pay taxes and to withhold and remit taxes pursuant to the provisions of this chapter are hereby imposed as follows:

(1) In the case of taxpayers failing to file a return required by this chapter within the time frames set forth herein, and including any lawfully permitted extensions, the taxpayer shall pay a penalty of \$25.00 upon a first offense, \$50.00 upon a second offense, \$100.00 upon a third offense and \$150.00 upon a fourth or any subsequent offense.

(2) In the case of taxpayers failing to pay the full amount of tax due, a penalty as follows:

A. A penalty of 1% per month, or fraction thereof, of the amount of the unpaid tax, if the tax is paid during the first six months after the tax became due;

B. A penalty of 2% per month, or fraction thereof, of the amount of the unpaid tax, if the tax is paid during the seventh and twelfth month after the tax became due; and

C. A penalty of 4% per month, or fraction thereof, of the amount of the unpaid tax, if the tax is paid later than 12 months after it became due. The percentages herein specified, when used, shall apply from the first month of delinquency.

(c) Exceptions. A penalty shall not be assessed on an additional tax assessment made by the Tax Commissioner when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Tax Commissioner; and provided 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) Abatement by Board of Review. No abatement or reduction in any penalty or interest imposed under this chapter shall be made unless by the Board of Review and pursuant to the provisions of Section 151.13 of this Code. An appeal seeking an abatement or reduction in any penalty or interest shall be taken within 30 days from the imposition of such penalty or interest and the Board shall, upon hearing, have jurisdiction to affirm, reverse or modify any such imposition of penalty or interest, or any part thereof.

(Ord. 2005-2. Passed 3-28-05.)

151.11 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. No additional assessment shall be made after three (3) years from the time of payment of any tax due hereunder; provided however, there shall be no period of limitation on an additional assessment in a case of a return that omits income in excess of \$10,000 for the tax year in question or in the case of filing a false or fraudulent return with intent to evade the tax, or in the case of failure to file a return. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitations the period within which an additional assessment may be made by

the Tax Commissioner shall be extended 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 such refund has been filed within three (3) years from the date on 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) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety (90) days after the final filing date of the annual return, ninety (90) days after the complete return is filed, or ninety (90) days after an amendment is made in such return as a result of an appeal, whichever is later, no interest shall be allowed on the refunded overpayment. For purposes of computing the payment of interest on overpayments, no amount of tax for any taxable year shall be treated as having been paid before the date on which the tax return for that year was due without regard to any extension of time for filing that return. The interest shall be paid at the rate of interest prescribed by Ohio R.C. 5703.47.

(Ord. 2005-2. Passed 3-28-05.)

151.12 VIOLATIONS.

(a) No person shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this chapter; or
- (2) Make an 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 and remit such withholding tax to the Tax Commissioner; or
- (5) Refuse to permit the Tax Commissioner or any duly authorized agent or employee to examine his or his employer's books, records, papers, and federal income tax returns; or
- (6) Fail to appear before the Tax Commissioner and to produce his or his employer's books, records, papers or federal income tax returns upon order or subpoena of the Tax Commissioner; or
- (7) Refuse to disclose to the Tax Commissioner any information with respect to such person's or such person's employer's income or net profits; or
- (8) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Commissioner; or
- (9) Fail, neglect or refuse to make any payment on the estimated tax for any year as required by Section 151.07; or
- (10) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and municipal tax withheld; or to knowingly give the Tax Commissioner 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.

(b) If any corporation or association violates this section, any employee of said corporation or association having control or supervision of or charged with the responsibility of complying with this section, the President, Chief Executive Officer or Chief Financial Officer of such corporation, association, limited liability company or partnership, or any owner, director, officer, manager or trustee who is responsible for the execution of the corporation's or association's fiscal responsibilities pursuant to this section, shall also be personally liable for the violation and subject to the penalty provided herein.

(c) Statute of Limitations.

(1) Civil actions to recover Municipal income taxes and penalties and interest on Municipal income taxes shall be brought within three (3) years after the tax was due or the return was filed, whichever is later.

(2) Prosecutions for an offense made punishable under this chapter 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 ten thousand dollars (\$10,000) or more of income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense.

(d) Failure to Obtain Forms not a Defense. The failure of any employer, taxpayer 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.

(e) Responsibility of Corporation Employees. The term "person" as used in this section shall include in the case of an association or corporation not having any partner, member or officer within the municipality, any employee or agent of such association or corporation who can be found within the corporate limits of the municipality.

(Ord. 2005-2. Passed 3-28-05.)

151.13 BOARD OF REVIEW.

(a) Composition. A Board of Review consisting of three (3) persons, appointed by the Mayor, with the consent of Council is hereby created. The individual acting as the local administrator of the tax shall act as secretary of the Board.

(b) Notification of Taxpayer. Whenever the Tax Commissioner issues a decision regarding an income tax obligation that is subject to appeal as provided in this section, or in an ordinance or regulation of the municipality, the Tax Commissioner shall notify the taxpayer at the same time of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision.

(c) Procedure. A majority of the members of the Board shall constitute a quorum. The Board of Review created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Section 149.43 of the Ohio Revised Code. Hearings requested by a taxpayer before the Board are not meetings of a public body subject to Sections 121.22 of the Ohio Revised Code.

(d) Appeals. Any person who is aggrieved by a decision by the Tax Commissioner and who has filed with the municipality the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision may appeal the decision to the Board of Review by filing a request with the Board. The request shall be in writing, shall state with particularity why the decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the Tax Commissioner has issued the decision.

(e) The Board of Review shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives a hearing, or the taxpayer agrees to extend the forty-five (45) day deadline. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant or other representative.

The Board may affirm, reverse, or modify the Tax Commissioner's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its final decision by ordinary mail to all of the parties to the appeal within fifteen (15) days after issuing the decision. The taxpayer or the Tax Commissioner may appeal the Board's decision as provided in Section 5717.011 of the Ohio Revised Code.

(Ord. 2005-2. Passed 3-28-05.)

151.14 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Limitation on Amount Paid. Every individual taxpayer who resides in the municipality and who receives salaries, wages, commissions, or other compensation or net profits from sales made,

work done or services performed or rendered outside of the municipality, if it be made to appear that he has paid a municipal income tax on such income, taxable under this chapter, to another municipality, shall be allowed a credit for such tax paid, against the tax imposed by this chapter in an amount not to exceed the tax due the Village under this chapter. When a taxpayer pays a tax to another municipality on a portion of the taxpayer's income a credit shall be allowed for the amount paid to the other municipality on said portion of the taxpayer's income in an amount not to exceed the tax due the Village under this chapter on said portion. On any portion of a taxpayer's income for which no tax has been calculated and paid to another municipality a tax shall be calculated and paid to the Village under this chapter.

(b) Credits and Limitations Thereof. Notwithstanding the provisions contained in Section 151.11 hereof, or any other provisions inconsistent herewith, a claim for refund or credit under this section shall be made in such manner as the Tax Commissioner may by regulation provide. No such claim for refund or credit shall be allowed unless made on or before the date of filing the taxpayer's final return unless such taxpayer's employer files with the Tax Commissioner a list showing the tax withheld from taxpayer's wages, salaries or commissions for other municipalities.

(c) Except as noted in subsection (d) hereof, if tax or withholding is paid to a municipal corporation on income or wages, and if a second municipal corporation imposes a tax on that income or wages after the time period allowed for a refund of the tax or withholding paid to the first municipal corporation, the second municipal corporation shall allow a nonrefundable credit, against the tax or withholding the second municipality claims is due with respect to such income or wages, equal to the tax or withholding paid to the first municipal corporation with respect to such income or wages.

(d) If the tax rate in the second municipal corporation is less than the tax rate in the first municipal corporation, then the credit described in subsection (c) hereof shall be calculated using the tax rate in effect in the second municipal corporation.

(Ord. 2005-2. Passed 3-28-05.)

151.15 INFORMATION REQUIRED TO BE GIVEN BY LANDLORD.

(a) Landlord Information Required. Every landlord who owns or controls rental property located within the Village, and who rents to tenants who occupy the property for thirty (30) days or more, shall within thirty (30) days after a new tenant occupies the rental property, file with the Tax Commissioner a report showing the name, address and telephone number, if available, of each such tenant.

(b) Termination of Tenancy. Within thirty (30) days after a tenant vacates an apartment, room or other rental unit located within the Village, the property owner of such unit shall file with the Tax Commissioner a report showing the name of that person, the property address, the date of vacation of the rental property and a forwarding address, if available.

(c) Annually, with the filing of a return due under this chapter, every landlord who owns or controls rental property located within the Village, shall file a report listing the current tenants who occupy the rental property, showing the name, address and telephone number, if available, of each such tenant.

(d) Penalty. A willful violation of this section shall be an offense punishable by a fine not to exceed one thousand dollars (\$1,000.00).

(Ord. 2005-2. Passed 3-28-05.)

151.16 SAVINGS CLAUSE.

This chapter shall not apply to any person, firm or corporation, or to any property as to whom or which, it is beyond the power of Council to impose the tax herein provided for. Any sentence, clause, section or part of this chapter, or any tax against or exception granted any individual or any of the several groups of persons, or forms of income specified herein if found to be unconstitutional or illegal or invalid, such unconstitutionality, illegality or invalidity shall affect

only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council of the Municipality that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence or part hereof, not been included therein.

(Ord. 2005-2. Passed 3-28-05.)

151.99 PENALTY.

Any person, firm, or corporation who violates any of the provisions of this chapter, unless otherwise specified, shall be guilty of a misdemeanor and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more that 180 days, or both, for each offense.

(Ord. 2005-2. Passed 3-28-05.)