

VILLAGE OF GENOA, OHIO

VILLAGE INCOME TAX CODE

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TITLE SEVEN - TAXATION
TAX CODE
CHAPTER 181 INCOME TAX

SECTION 1. PURPOSE

To provide funds for the purpose of general municipal operation, capital improvements, and sanitary sewer improvements and bond retirement for the Village of Genoa, there shall be, and hereby is, levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.

SECTION 2. DEFINITIONS

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

"ADMINISTRATOR"-The individual designated, whether appointed or elected, to administer and enforce the provisions of this Tax Code.

"ASSIGNMENT"-The Assignment made by a resident of Genoa of claim for refund due from another taxing municipality granting credit to non-residents thereof.

"ASSOCIATION"-A partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.

"BOARD OF REVIEW"-The Board created to hear and pass on appeals from any ruling or decision of the Administrator. Board of Review to consist of makeup of members as defined in this Tax Code.

"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.

"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 dependence.

"EMPLOYEE"-One who works for wages, salary, commission or other type of compensation in the service of an employer.

"EMPLOYER"-An individual, co-partnership, association, corporation, governmental body or unit, or agency, or any other entity who or that employs one or more persons on a salary, wage, commission or other compensation basis.

"NET PROFITS"-The net gain from the operation of a business, profession, or enterprise after provision for all costs and expenses incurred in the conduct thereof, either paid or accrued in accordance with the accounting system used, and without deduction of taxes based on incomes.

"NON-RESIDENTS"- An Individual, co-partnership, association, or other entity domiciled outside the Village of Genoa.

"PERSON"-Every natural person, co-partnership, fiduciary or association. Whenever used in any clause prescribing and imposing a penalty, the term "person", as applied to association shall mean the partners or members thereof and as applied to corporations, the officers thereof.

"PLACE OF BUSINESS"-Any bonafide office (other than a mere statutory office), factory, warehouse or other space which is occupied and used by the taxpayer in carrying out any business activity individually or through one or more of his regular employees regularly in attendance.

"RESIDENT"-A person who lives in the Village of Genoa during the period in which he performs work or renders services for compensation or who conducts a business for profit shall be considered a resident of the Village of Genoa, for the purpose of this code; the place where the work is performed, the services rendered, or the business is conducted is material; and individual co-partnership, association or other entity domiciled in the Village of Genoa.

"TAX CREDIT"-Credit for tax paid to another municipality. Tax Credit shall not exceed three-fourths ($3/4$) of a percent, for any Income Tax paid to another municipality.

"TAXABLE INCOME"-Wages, salaries and other compensation paid by an employer or employers before any deductions and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this Tax Code.

"TAXPAYER"-A person, whether an individual, co-partnership, association, or any corporation or other entity, required hereunder to file a return of earnings or net profit, or to pay a tax hereunder.

"OTHER ENTITY"-The term "other entity" means any person or unincorporated body not previously named or defined and includes inter alia fiduciaries. The singular shall include the plural and the masculine shall include the feminine and the neuter.

SECTION 3. THE GENOA TAX RATE

(A). The funds collected under the Genoa Village Income Tax at the rate of one and one-half percent ($1\frac{1}{2}\%$) per year shall be applied for the following purposes:

(A.1) (1%) Such part thereof as necessary to defray all cost of collecting the tax and cost of administration and enforcing provisions thereof.

one-fourth ($\frac{1}{4}$) of the balance of one percent (1%) shall be used for payments of notes and/or bonds issued for capital improvements purchases.

All of the balance of the one percent (1%) shall be allocated to the General Fund primarily for the purpose of general municipal operations, and shall be allocated as to the Village needs.

- (A.2) ($\frac{1}{2}\%$) Such part thereof as necessary to defray all cost of collecting the Tax and cost of Administration and enforcing provisions thereof.

The balance of the one-half percent ($\frac{1}{2}\%$) to the payment of notes and/or bonds issued to finance sewerage treatment plant and intercepting sewer improvements.

SECTION 4. TAXES SHALL BE PAID UPON:

- (1). All salaries, wages, commissions, and other compensations earned.
- (2). All salaries, wages, commissions, and other compensation earned by non-residents of the Village of Genoa for work or services performed or rendered in the Village of Genoa.
- (3). The net profits earned on all businesses, professions, or other activities conducted by the residents of the Village of Genoa.
- (4). On the net profits earned on all businesses, professions, or other activities, conducted in the Village of Genoa, by non-residents.
- (5). The net profits earned on all corporations from work done or services performed or rendered and business or other activities conducted in the Village of Genoa, whether or not such corporations have an office or place of business in the Village of Genoa.

SECTION 5. ALLOCATION FORMULA

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

SECTION 6. OPERATING LOSS CARRY FORWARD

- (1). The portion of a net operating loss sustained in any taxable year subsequent to January 1, 1989, allocable to the Village, may be applied against the portion of of the profit of succeeding years allocable to the Village until exhausted but in no event for more than five taxable years.

- (1). 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 allocated to the Village in the same manner as provided herein for allocating net profits to the Village.
- (3). The Administrator shall provide rules and regulations for the manner in which such net operating loss carry forward shall be determined.

SECTION 7. CONSOLIDATED RETURNS

- (1). Filing of consolidated returns may be permitted or required in accordance with the rules and regulations prescribed by the Administrator.
- (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, or in case any person operates a division branch factory, office laboratory or activity within the Village constituting only a portion of its total business. The Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the Village. If the Administrator finds net profits are not properly allocated to the Village by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with such divisions, 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.

SECTION 8. EXCEPTION

- (1). The tax provided for herein shall not be levied upon the military pay or allowances of full time members of the armed forces of the United States, or upon the net profits of any civic, charitable, religious, fraternal or other organization Ohio R.C. 718.01 to the extent that such net profits are exempted from municipal income taxes under such section.
- (2). Form 2106 Deductions - If a taxpayer's taxable income includes income against which taxpayer has taken a deduction for federal income tax purposes as reportable on the taxpayers form 2106, then the taxpayer shall be allowed to deduct from his taxable income an amount equal to the deduction shown on such form allowable against such income, to the extent not otherwise so allowed as a deduction under this Tax Code.

SECTION 9. RETURN AND PAYMENT OF TAX

- (1). Each taxpayer, except as herein provided, shall, whether or not a tax be due thereon, make and file a return on or before April 30th. of each year. When the return is made for a fiscal year, or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or period.
- (2). The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from such Administrator setting forth:
 - (A). The aggregate amount of salaries, wages, commissions and other compensation earned and,
 - (B). The gross income from a business, profession, or other activity less allowable expenses incurred in the acquisition of such gross income.
 - (C). Such income shall include only income earned during the year, or portion thereof, covered by the return and subject to the tax imposed by this Tax Code.
 - (D). The amount of tax imposed by this Tax Code on income reported.
 - (E). Such other pertinent statements, information returns, or other information as the Administrator may require.
- (3)(A) The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the balance of tax due, if any, after deducting:
 - (1) The amount of Village income tax deducted or withheld during the previous year.
 - (2) Such portion of the tax as has been already paid on declaration by the taxpayer.
 - (3) Any credit allowable, as provided within this Tax Code.
- (4). Should the return or the records of the Administrator indicate an overpayment of the tax to which the Village is entitled under the provisions of this Tax Code, such overpayment shall first be applied against any existing liability and the balance, if any, at the election of the taxpayer communicated to the Administrator, shall be refunded or transferred against any subsequent liability.

(5). Amended Returns

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

SECTION 10. COLLECTION AT SOURCE

- (A) 1. Each Employer within or doing business within the Village who employs one or more persons on a salary, wage, commission or other compensation basis, shall, at the time of payment thereof, deduct the tax at the rate specified in this Tax Code from the gross salaries, wages, commissions, or other compensation, including tips and supplemental unemployment benefits earned by Village residents, regardless of where such compensation was earned, and shall deduct the tax at the rate specified in this Tax Code from the salaries, wages, commissions or other compensation earned within the Village by non-residents.
- (2). Notwithstanding the provisions of subsection (A)(1) of this section, where such employer employs a Village resident in another taxing municipality requiring such employer to deduct its tax from all employees engaged therein, such employer shall withheld for and remit to the Village only the difference, if any, between the tax imposed by such other taxing municipality and the tax imposed by this Tax Code.

- (3). Each such employer shall, on or before the last day of the month following each calendar quarter, make a return and remit to the Village the tax hereby required to be withheld. Such return shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefore by the Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld from such employee.
- (4). On or before January 31 following any calendar year, such employer shall file with the Administrator an information return for each employee from whom the Village 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 Village income tax withheld from such employee.
- (B). Each employer in collecting the tax shall be deemed to hold the same until payment is made by such employer to the Village, as a trustee for the benefit of the Village. Any such tax collected by such employer from his employees shall, until the same is paid to the Village, be deemed a trust fund in the hands of such employer.
- (C). The Administrator for good cause may require immediate returns and payments to be submitted to his office.

SECTION 11. DECLARATION

- (A). Every person who anticipates any taxable income which is not subject to SECTION 10, or who engages in any business, profession, enterprise or activity subject to the tax imposed in this Tax Code, who anticipate owing forty dollars (\$40.00) or more by the end of the tax year, 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 wages from the tax will be withheld and remitted to the Village in accordance with SECTION 10, such person need not file a declaration.
- (B)(1) Such declaration shall be filed on or before April 30th. of each year during the life of this Tax Code, or within four (4) months of the date the taxpayer becomes subject to tax for the first time.
- (2) These taxpayers reporting on a fiscal year basis shall file a declaration within four (4) months after the beginning of each fiscal year or period.

- (C)(1) Such declaration shall be filed upon a form furnished by or obtainable from the Administrator. Credit shall be taken for Village 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 this Tax Code.
- (2) The original declaration or any subsequent amendment thereof may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.
- (D) The taxpayer making the declaration shall, at the time of the filing thereof, pay to the Administrator at least one-fourth ($\frac{1}{4}$) of the estimated annual tax due after deducting:
- (1) Any portion of such tax to be deducted or withheld at the source pursuant to SECTION 10.
- (2) Any credits allowable under provisions of this Tax Code.
- (3) Any overpayment of the previous year's tax liability which taxpayer has not elected to have refunded.
- At least a similar amount shall be paid on or before the last day of the sixth, ninth, and twelfth month after the beginning of taxpayer's taxable year, provided that in case an amended declaration has been duly filed, or the taxpayer is taxable for a portion of the year only, the unpaid balance shall be paid in equal installments on or before the remaining payment dates.
- (E) On or before the last day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the Village shall be paid therewith in accordance with the provisions of this Tax Code.

SECTION 12 DUTIES OF ADMINISTRATOR

(A)(1) Collection Responsibility

It shall be the duty of the official designated to receive monies due the Village of Genoa to receive the tax imposed by this Tax Code in the manner prescribed herein from the taxpayer; to keep an accurate record thereof, and to report all monies so received.

(2) Responsibility for Maintenance of Records

It shall be the duty of the Administrator to enforce payment of all taxes owing Genoa, to keep accurate records for a minimum of five (5) years, showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld and to show the dates and amounts of payments thereof.

(B) Enforcement Authority

Said Administrator is hereby charged with the enforcement of the provisions of this Tax Code, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this Tax Code, including provisions for the re-examination and corrections of returns.

The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer as per this Tax Code.

Failure to make any deferred payment when due, shall cause the total unpaid amount, including penalty and interest, to become due and payable on demand.

(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 Administrator may determine the amount of tax appearing to be due from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax to be determined, together with interest and penalties therein, if any.

(D) Compromise Authority

Subject to the consent of the Board of Review or pursuant to regulation approved by said Board, the Administrator shall have the power to compromise any interest or penalty, or both, imposed by SECTION 14 of this Tax Code.

SECTION 13 INVESTIGATIVE POWERS OF THE ADMINISTRATOR; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION

(A) Examination of Taxpayer's Records

The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records, and federal income tax returns of any employer or of any taxpayer or person subject to, or whom the Administrator believes is subject to provisions of this Tax Code, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this Tax Code. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request.

By the Administrator, or his duly authorized agent or employee, the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized.

(B) Appearance Orders to Taxpayers

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

(C) Results of Refusal to Submit Information

The refusal to produce books, papers, records and federal 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 SECTION 13, or with an order or subpoena of the Administrator authorized hereby, shall be deemed a violation of this Tax Code, punishable as provided in SECTION 16 hereof.

(D) Confidential Nature of Information

Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this Tax Code shall be confidential, except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this Tax Code shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than one thousand dollars (\$1,000.00) or imprisoned for not more than six (6) months, or both. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of the Village of Genoa who violates the provisions of this SECTION 13 relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

E. Retention of Records

Every taxpayer shall retain all records necessary to compute his tax liability for a period of five (5) years from the date his return is filed, or the withholding taxes are paid.

SECTION 14 INTEREST AND PENALTIES

- A. All taxes imposed and all monies withheld or required to be withheld by the employers under the provisions of this Tax Code and remaining unpaid after they become due shall bear interest at the rate of one and one-half (1.5%) percent per month or fraction thereof.
- B. In addition to interest as provided in paragraph (A) hereof, penalties are hereby imposed as follows:
1. For failure to pay taxes when due other than taxes withheld, the greater of 1.5% of the unpaid taxes or twenty-five dollars (\$25.00) per month or fraction thereof.
 2. For failure to remit taxes, withheld from employees when due, the greater of six percent (6%) of the unpaid tax or fifty dollars (\$50.00) per month or Section thereof.
 3. For failure to file a tax return by the due date, there is hereby imposed a late filing penalty of fifteen dollars (\$15.00).
- C. A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator, and provided further, that, in the absence fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return filed and the additional tax is paid within three (3) months after final determination of the federal tax liability.
- D. Upon recommendation of the Administrator, the Board of Review may abate penalty or interest, or both, or upon appeal from the refusal of the Administrator to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest or both.

SECTION 15. COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS

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

SECTION 16. BOARD OF REVIEW

- A. A Board of Review consisting of the Village Solicitor as Chairman, the Chairman of the Finance Committee as Secretary, and one other member of Council to be selected by the Solicitor and the Chairman of the Finance Committee 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 13 (D) in this Tax Code with reference to the confidential character of information required to be disclosed, shall apply to such matters as may be heard before the Board of Review.
- B. All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by this Tax Code, must be approved by the Board of Review with consent of Council before the same becomes effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator, and, at the request of the Taxpayer or Administrator, is empowered to substitute alternate methods of allocation.

- C. Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority of this Code, may appeal therefrom to the Board of Review within thirty days (30) from the announcement of such ruling or decision, or any part thereof.

SECTION 17. CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY

There shall hereby be allowed a credit of three-fourths ($3/4$) of one percent (1%) of wages earned and taxed by another Village or City by Village residents against the Village of Genoa Income Tax.

SECTION 18. SAVING CLAUSE

If any sentence, clause, section or part of this Tax Code, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this Tax Code.

SECTION 19. VIOLATIONS AND PENALTIES

- A. Any person who shall:
1. Fail, neglect, or refuse to make any return or declaration required by this Tax Code: or,
 2. Make any incomplete, false or fraudulent return; or,
 3. Willfully fail, neglect or refuse to pay the Tax, penalties interest imposed by this Tax Code: or,
 4. Willfully fail, neglect or refuse to withhold the Tax from his employees or remit such withholding to the Administrator; or,
 5. Refuse to permit the Administrator or duly authorized agent or employee to examine his books, records, papers, and federal income tax returns relating to the income or net profits of a taxpayer; or,
 6. Fail to appear before the Administrator to produce his books, records, paper or federal income tax returns relating to the income or net profits of a taxpayer; or,
 7. Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or,
 8. Fail to comply with the provisions of this Tax Code or any order or subpoena of the Administrator authorized hereby; or,

9. Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify 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 this municipality's income tax withheld, or to knowingly give the Administrator false information; or,
11. Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties, or interest imposed by this Code,

Shall be guilty of a misdemeanor in the first degree and shall be fined not more than One Thousand Dollars (\$1,000.00) or imprisoned not more than six (6) months or both, for each offense.

- B. Prosecutions for an offense made punishable under this section or any other provision of this Code 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 income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense.
- C. The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form, or from paying tax.
- D. Any person divulging information in violation of SECTION 13 of this Tax Code shall upon conviction thereof, be deemed guilty of a misdemeanor in the first degree and shall be subject to a fine or penalty of not more than One Thousand Dollars (\$1,000.00) or imprisoned for not more than six (6) months, or both. Each disclosure shall constitute a separate offense.
- E. In addition to the above penalty, any employee of the Village who violates the provisions of SECTION 13 of this Tax Code relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.