

# Village of West Liberty

## Municipal Income Tax Ordinance CHAPTER 183

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## **CHAPTER 183**

### **Income Tax**

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#### **CROSS REFERENCES**

Power to Levy an Income Tax - See Ohio Constitution, Article XVIII §3

Payroll Deductions – See Ohio Revised Code Section 9.42

Municipal Income Taxes – See ORC Chapter 718 for State Statutory  
limitations on municipal income tax powers and procedures

#### **183.01 PURPOSE.**

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

#### **183.02 DEFINITIONS.**

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

1. “Adjusted federal taxable income” means a C corporation’s federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

- a. Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income;
- b. Add an amount equal to five percent (5%) of intangible income deducted under division (1)(a) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;
- c. Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
- d.
  - (i) Except as provided in division (1)(d)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
  - (ii) Division (1)(d)(i) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.
- e. Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
- f. In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;
- g. If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C corporation, except:
  - (i) Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as a deductible expense; and

(ii) Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

Nothing in division (1) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

Nothing in this chapter shall be construed as limiting or removing the ability of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.

2. "Association" means a partnership, limited partnership, S corporation or any other form of unincorporated enterprise, owned by one or more persons.
3. "Board of Tax Appeals" means the Board created by and constituted as provided in Section 183.12.
4. "Business" means an enterprise, activity, profession or undertaking or other activity 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.
5. "Corporation" means 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.
6. "Domicile" means 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.
7. "Employee" means one who works for wages, salary, commission or other types of compensation in the services of an employer.
8. "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, having a place of business or doing business within the City and who or that employs one or more persons on a salary, wage, commission or other compensation basis.

9. "Fiscal year" means an accounting period of twelve (12) months or less ending on any day other than December 31.
10. "Form 2106" means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
11. "Generic form" means 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. The generic form, once completed and filed, must contain all of the information required to be submitted with the municipality's prescribed returns, reports, or documents.
12. "Gross receipts" means total income of taxpayers from whatever source derived.
13. "Income from a pass-through entity" means partnership income of partners, membership interests 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.
14. "Intangible income" means 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, trade names, 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.
15. "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.
16. "Internet" means the international computer network of both Federal and nonfederal interoperable packet switched data networks, including the graphical sub network known as the World Wide Web.
17. "Joint Economic Development District" means districts created under the Ohio Revised Code sections 715.70 through 715.83, as amended from time to time.
18. "Limited liability company" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.

19. "Municipality" means the Village of West Liberty.
20. "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 38.03, required to be reported on schedule C, schedule E, or schedule F.
21. "Nonqualified deferred compensation plan" means a compensation plan described in section 3121(v)(2)(C) of the Internal Revenue Code.
22. "Nonresident" means an individual domiciled outside the Municipality.
23. "Nonresident incorporated business entity" means an incorporated business entity not having an office or place of business within the Municipality.
24. "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Municipality.
25. "Other payer" means 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.
26. "Owner" means 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.
27. "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.
28. "Person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity. Whenever used in any section prescribing and imposing a penalty, "person" includes an officer or employee of a corporation, or member of employee of an association, who as such officer, employee or member is under a duty to perform the act in respect of which the violation occurs.
29. "Place of business" means any bona fide office (other than a mere statutory office), factory, warehouse, or other space, which is occupied and used by the taxpayer in carrying on any business activity, individually or through one or more of his regular employees regularly in attendance.

30. "Principal place of business" means in the case of an employer having 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.
31. "Qualified plan" means a retirement plan satisfying the requirements under section 401 of the Internal Revenue Code as amended.
32. "Qualifying wages" means 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.
33. "Resident" means an individual domiciled in the Municipality.
34. "Resident incorporated business entity" means an incorporated business entity whose office; place of operations or business situs is within the Municipality.
35. "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Municipality.
36. "Return preparer" means any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer.
37. "Schedule C" means Internal Revenue Service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.
38. "Schedule E" means Internal Revenue Service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.
39. "Schedule F" means Internal Revenue Service schedule F filed by a taxpayer pursuant to the Internal Revenue Code.
40. "S corporation" means 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.
41. "Tax Administrator" means the Tax Administrator for the Municipality, or the person appointed to administer the Municipality's Income Tax Ordinance and to direct the operation of the Municipal Income Tax Department.
42. "Taxable income" means qualifying wages paid by an employer or employers, compensation for personal services, other income defined by statute or by this Chapter 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, and net profits as defined.

43. "Taxable year" means the corresponding tax-reporting period as prescribed for the taxpayer under the Internal Revenue Code.
44. "Taxing municipality" means a municipality levying a tax on income earned by nonresidents working within such municipality or on income earned by its residents.
45. "Taxpayer" means a person, whether an individual, partnership, association or any corporation or other entity, required hereunder to file a return or pay a tax.

The singular shall include the plural, the masculine shall include the feminine and the neuter, and all periods set forth shall be inclusive of the first and last mentioned dates.

### **183.03 IMPOSITION OF TAX.**

A. Basis of Imposition. Subject to provisions of section 183.17, an annual tax for the purposes specified in Section 183.01 shall be, and is hereby, levied on and after July 1, 2013 at the rate of one percent (1.0%) 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 nonresidents for work done, or services performed or rendered, in the Municipality;
3. On all income derived from anywhere from prizes, awards, gaming, wagering, lotteries, gambling, or schemes of chance by a resident, and on all income derived from prizes, awards, gaming, wagering, lotteries, gambling, or schemes of chance by a nonresident when such income is won or received from sources within the Municipality.
4. On covenants not to compete and on cancellation of indebtedness to the extent includible on the taxpayer's federal return.
5. On guardian, executor, conservator, trustee or administrator fees earned or received by a taxpayer.
6. On the portion attributable to the Municipality of the net profits earned by all resident unincorporated businesses, pass-through entities, professions



or other activities, derived from work done or services performed or rendered, and business or other activities conducted in the Municipality. On the portion of the distributive share of the net profits earned by a resident owner of a resident unincorporated business entity or pass-through entity not attributable to the Municipality and not levied against such unincorporated business entity or pass-through entity.

7. On the portion attributable to the Municipality on the net profits by all nonresident unincorporated businesses, pass-through entities, 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 unincorporated business 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 or pass-through entity not attributable to the Municipality and not levied against such unincorporated business entity or pass-through entity.
8. On the portion attributable to the Municipality of the net profits earned by all corporations that are not pass-through entities from 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. Businesses 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 division (D) of this section, 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 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 such municipal corporation 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 and services performed during the taxable period in such municipal corporation 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 B. 1. a. b. and c. hereof, 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 such total.

2. A factor is applicable even though it may be apportioned entirely in or outside the Municipality.
3. Provided however, that in the event a just and equitable result cannot be obtained under the formula provided for herein, the Tax Administrator, upon application of the taxpayer, shall have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.

C. As used in division (B) of this section, "sales made in a municipal corporation" mean:

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 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, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

D. The Municipality does not allow a net operating loss carryback or carryforward.

E. Losses from federal schedules and other sources reported for federal income tax purposes cannot be used to offset qualifying wages, commissions, other compensation and other taxable income earned or received by residents or nonresidents of the Municipality.

If an individual is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity may be used to offset the profits of another (except any portion of a loss or profit separately reportable for municipal tax purposes to another taxing entity) for purposes of arriving at overall net profits or net operating loss.

A deduction against qualifying wages will be allowed for properly reported and documented Employee Business Expenses, included on Form 2106, but shall be limited to the amount actually deducted for federal income tax purposes, from Schedule A, and after the deduction for 2% adjusted gross income. Any deduction against qualifying wages for income subject to tax by another taxing municipality will reduce any credit for tax withheld or paid accordingly.

F. Consolidated Returns.

(1) Filing of consolidated returns may be permitted or required in accordance with the Rules and Regulations prescribed by the Tax Administrator. A consolidated return may be filed by any affiliated group of corporations subject to the tax imposed by this chapter if that affiliated group filed for the same taxable year a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code. If an affiliated group of corporations subject to the tax imposed by this chapter is required to file a consolidated return or files a consolidated return in accordance with this section, the affiliated group of corporations must continue to file consolidated returns including that group of corporations and any other group of corporations included in the federal consolidated filing group for all subsequent taxable years that the group files a consolidated tax return for federal tax purposes unless, on or before the due date for filing the city income tax return for the taxable year, the affiliated group obtains written permission from the Tax Administrator to file separate returns for that year.

(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 City constituting a portion only of its total business, the Tax Administrator shall require such additional information as he or she may deem necessary to ascertain whether net profits are properly allocated to the City. If the Tax Administrator finds that net profits are not properly allocated to the City by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with such division, branch, factory, office, laboratory or activity or by some other method, the Tax Administrator shall make such allocation to produce a fair and proper allocation of net profits to the City.

G. Exclusions.

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

1. Proceeds from welfare benefits, unemployment insurance benefits, 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. Alimony.
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 (ORC 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 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually. Such compensation in excess 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 headquarters 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.

i. For purposes of this Section, "day" means any part of a 24 hour calendar day where compensation is earned in the Municipality.

ii. Beginning with the thirteenth (13<sup>th</sup>) day, whether consecutive or nonconsecutive, the individual shall be taxable on all income subject to the tax as outlined in this Section during the first twelve (12) days, whether consecutive or nonconsecutive.

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 division (G)(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. An S corporation shareholder's distributive share of net profits or losses of the S corporation.

19. Personal earnings of all persons under sixteen (16) years of age.

20. 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.

#### **183.04 EFFECTIVE PERIOD.**

Said tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation earned and shall be levied with respect to the net profits of the businesses, professional or other activities earned from and after July 1, 2013.

#### **183.05 RETURN AND PAYMENT OF TAX.**

A. Each person who engages in business or other activity or whose qualifying wage, commissions, other compensation and other taxable income is subject to the tax imposed by this Chapter, and every resident shall, whether or not a tax be due thereon, make and file a return on or before April 15th of each year (or on or before the due date for the federal income tax return filing for the corresponding period, whichever is later), with the Tax Administrator a Municipal tax return on a form prescribed by and acceptable to the Tax Administrator, whether or not a tax is due. 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 (or on or before the due date for the federal income tax return filing for the corresponding period, whichever is later). The Tax Administrator 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 qualifying wages, commissions, other compensation, and other taxable income of a nonresident employee, and paid by him or them to the Tax Administrator may be accepted as the return required of a nonresident employee whose sole income, subject to tax under this Tax Code, is such qualifying wages, commissions, other compensation, and other taxable income.

No resident taxpayer shall be required to file a return who is not eighteen (18) years of age at the end of the tax year, provided that income earned had municipal income tax withheld either for the Municipality, or that credit for tax withheld for another municipality would result in no additional tax liability to be due thereon, and that the income is not exempt by 183.03(G)(19).

The Tax Administrator shall also have authority to provide, by Administrative Order, that certain retired individuals may be exempt from this section, providing that no reportable or taxable income exists beyond income exempt from taxation as provided by this Chapter.

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.

C. The return shall be filed with the Tax Administrator on a form or forms furnished by or obtainable upon request from the Tax Administrator; 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. The Municipality must make the tax form or forms available on the Internet.

D. The return shall set forth:

1. The aggregate amounts of qualifying wages, commissions, other compensation received, allocated, 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 Tax Code 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 Administrator may require, including a statement that the figures used in the return are the figures used for federal income tax adjusted to set forth only such income as is taxable under the provisions of this Chapter.

- E.
1. Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a Municipal Income Tax Return by filing a copy of the taxpayer's federal extension request with the Municipal Tax Division. Any taxpayer not required to file a federal income tax return may request an extension for filing a Municipal Income Tax Return in writing. 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.
  2. The Tax Administrator 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, penalty, interest 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.
- 3. The granting of an extension for filing a Municipal tax return does not extend the due date as provided in this section for payment of the tax; hence, penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by section 183.10. Any extension by the Tax Administrator 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 Administrator the amount of taxes shown as due. However, credit shall be allowed for:
  - a. Any portion of the tax so due which shall have been deducted at the source pursuant to the provisions of section 183.06; and
  - b. Any portion of said tax which shall have been paid by the taxpayer pursuant to the provisions of section 183.07; and
  - c. Credit to the extent allowed by section 183.14 for tax paid to another municipality.
- 2. Subject to the limitations contained in section 183.11 of this Tax Code, any taxpayer who has overpaid the amount of tax to which the Municipality is entitled under the provisions of this Tax Code 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 five dollars (\$5) 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

section 183.11. The Tax Administrator 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 Municipal 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.

H. Information returns, schedules and statements required to support tax returns which are incomplete without such information shall be filed within the time limits set forth for the filing of the tax returns and the failure to file such information returns, schedules and statements shall be a violation of this Tax Code. Provided, however, that the taxpayer shall have ten (10) days after notification by the Tax Administrator, or his authorized representative, to file the items required by this paragraph.

#### **183.06 COLLECTION AT 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, apportioned or set aside, the tax at the rate provided in section 183.03 hereof on the qualifying wages due by such employer to each such employee and shall, on or before the fifteenth day of the month following each calendar quarter (ending March 31, June 30, September 30 and December 31 annually), make a return and pay to the Tax Administrator the amount of taxes so deducted during the preceding calendar quarter. The return shall be on a form or forms prescribed by or acceptable to the Tax Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such taxes have in fact been withheld. Nothing in this section prohibits an employer from withholding tax on a basis greater than qualifying wages. The Tax Administrator may require withholding payments to be made by electronic funds transfer or by any other electronic payment remittance method.

B. 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.

- C. 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 and shown as withheld on the employee's W-2 year end statement 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.

D. Employer Considered as Trustee. Each employer in collecting such tax shall be deemed to hold the same, until payment is made by such employer or other payer 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.

E. 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 183.99 hereof. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust does not discharge an officer'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.

F. Withholding Return; List of Employees. Each employer shall file a withholding tax reconciliation 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. The Tax Administrator may require the filing of such reconciliations and

employee information by alternate media.

G. 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. If the 1099-Misc includes compensation not attributable to services performed in the Municipality, a separate listing must also be included which indicates the portion attributable to services performed inside the Municipality. The information shall be filed annually on or before February 28 following the end of such calendar year.

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.

## **183.07 DECLARATIONS.**

### **A. Requirement for Filing.**

Every person who anticipates any taxable income which is not subject to section 183.06 or who engages in any business, profession, enterprise or activity subject to the tax imposed by section 183.03, shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any. Provided, however, if a person's income is wholly from qualifying wages from which the tax will be withheld and remitted to this Municipality in accordance with section 183.06, such person need not file a declaration.

### **B. Dates for Filing.**

1. Such declaration shall be filed on or before April 15th of each year during the life of this Chapter, or on or before the fifteenth (15<sup>th</sup>) day of the fourth (4th) month following the date the taxpayer becomes subject to tax for the first time.
2. Those taxpayers having a fiscal year or period differing from the calendar year 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. Such declaration shall be filed upon a form furnished by or obtainable from the Tax Administrator or an acceptable generic form, and credit shall be taken for the Municipal tax to be withheld from any portion of such income. In accordance with the provisions of section 183.14, credit may be taken for tax to be withheld and remitted to another taxing municipality.
2. The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.
3. For taxpayers who are individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the seventh, tenth and thirteenth months after the beginning of the taxable year.
4. For taxpayers that are not individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of the estimated annual tax and at least a similar amount shall be paid on or before the fifteenth (15th) day of the sixth, ninth and twelfth months after the beginning of the taxable year.
5. The mere submission of a declaration estimating a tax liability shall not constitute filing unless accompanied by the required payment.

D. Amended Declaration.

1. A declaration may be amended at any time.
2. In the event that an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

E. Annual Return Required.

On or before the fifteenth day of the fourth month of the calendar or fiscal year (or on or before the due date for the federal income tax return filing for the corresponding period, whichever is later), 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 183.05.

#### **183.08 DUTIES AND POWERS OF TAX ADMINISTRATOR.**

A. 1. It shall be the duty of the Tax Administrator to collect and receive the tax imposed by this Chapter in the manner prescribed therein, to keep an accurate record thereof, and to report all monies so received.

2. It shall be the duty of the Tax Administrator 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 dates and amounts of payments thereof.

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

C. In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, or where an employer has failed to pay withholding tax due to the Municipality, or has failed to show the proper amount due, the Tax Administrator 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. Subject to the consent of a majority of the Board of Tax Appeals, the Tax Administrator shall have the power to compromise any tax liability imposed by this Tax Code.

E. Upon the demonstration and documentation of good cause, the Tax Administrator shall have the power to compromise penalty and interest liabilities imposed by this Chapter, consistent with this Chapter or subsequent Rules and Regulations.

F. When an application for deferred payment of tax due is filed by a taxpayer, the Tax Administrator may authorize partial payments of unpaid taxes when, in his judgment, the taxpayer is unable, due to hardship conditions, to pay the full amount of the tax when due, and when, in his judgment, such deferred payments are the best means of accomplishing the intent of this Chapter. Provided, however, that the Tax Administrator shall not authorize an extension of time for the payment of such taxes due for more than

six (6) months beyond the date of the filing of the application, and providing that all income tax return filings have been made and all requested documentation or information has been provided. The Tax Administrator may, upon good cause shown, extend the period of time for partial payments. A payment agreement may be terminated by the Tax Administrator should the taxpayer fail to keep all current taxes timely paid and filed. Only one payment agreement will be authorized, and no future payment agreements for future tax years will be considered, unless approved by the Tax Administrator upon good cause shown.

**183.09 INVESTIGATIVE POWERS OF TAX ADMINISTRATOR;  
PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.**

A. The Tax Administrator, or any of his authorized agents, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer, taxpayer, or any person subject to, or whom the Tax Administrator 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 Administrator, or his duly authorized agent or employee, the means, facilities and opportunities for making such examinations and investigations as are hereby authorized.

B. The Tax Administrator is hereby authorized to order any person, presumed to have knowledge of the facts, to appear at the office of the Tax Administrator and to examine such person, under oath, concerning any income which was or should have been reported 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 income tax returns, and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

C. The refusal to produce books, papers, records or 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 or with an order or subpoena of the Tax Administrator authorized hereby, shall be deemed a violation of this Chapter punishable as provided in section 183.99.

D. 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.

E. Any information gained as a result of returns, investigations, hearings, or

verifications required or authorized by this Chapter shall be confidential and no person shall disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the municipal corporation as authorized by this Chapter. The Tax Administrator of the municipal corporation may furnish copies of returns filed under this Chapter to the Internal Revenue Service and to the State Tax Commissioner.

F. Any person divulging such information shall be guilty of a misdemeanor in the first degree punishable by a maximum fine of one thousand dollars (\$1,000.00) or imprisonment for not more than one hundred eighty (180) days, or both.

G. 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 shall be guilty of an offense punishable by immediate dismissal.

#### 183.10 INTEREST AND PENALTIES.

A. All taxes imposed and monies withheld or required to be withheld by employers under the provisions of this Tax Code shall bear interest at the rate of six percent (6%) per annum, assessed per month or any fraction of a month.

B. In addition to interest as provided in Paragraph A hereof, penalties are hereby imposed as follows based on the tax remaining unpaid after it becomes due and fees are hereby imposed for failure to file or timely file returns or required documentation:

- 1 For failure to pay taxes due, other than taxes withheld, one and one-half percent (1½%) per month or fraction thereof, or twenty-five dollars (\$25.00), whichever is greater.
2. For failure to remit taxes withheld or required to be withheld from employees; three percent (3%) per month or fraction thereof, or twenty-five dollars (\$25.00), whichever is greater.
3. Where the taxpayer has failed to file a return or any required filing as prescribed by this Ordinance by the due date or by the date resulting from extension, a fee of \$25.00 per filing is imposed.
4. Where the taxpayer has failed to file a declaration on which he has estimated and paid a tax equal to or greater than the tax paid for the previous year, or where he has filed a previous return and has failed to file a declaration on which he has estimated and paid a tax equal to or greater than ninety percent (90%) of the actual tax for the year, or has failed to file



a return and paid the total tax on or before the end of the month following the end of the taxable year; ten percent (10%) of the difference between ninety percent (90%) of the actual tax for the year and the amount paid through withholding and declaration.

5. No penalty or interest shall be charged against a taxpayer for the late payment or nonpayment of estimated tax liability if the taxpayer is an individual who resides in the municipal corporation but was not domiciled there on the first day of January of the tax year being filed.
6. Any employer required to file employee wage and tax statements and annual reconciliation of returns in accordance with this chapter, who fails to file such returns or statements or files incomplete returns or statements shall be subject to a penalty of \$50.00 per return or statement, up to a maximum of one thousand dollars (\$1,000.00) per tax year.
7. Any employer required to file employee wage and tax statements who fails to file electronically when required by the Tax Administrator shall be assessed a penalty of one dollar (\$1.00) per record in all years.

The Tax Administrator may establish a fee to cover printing, postage and personnel costs for forms requested in quantities of ten or more per request.

The Tax Administrator may establish fees for reproduction of returns, associated schedules and statements when requested by the taxpayer.

An Administrative charge of twenty five dollars (\$25.00) will be assessed for a check or electronically remitted payment returned by a bank or financial institution as unpaid for any reason whatsoever.

C. Exceptions. A penalty shall not be assessed on an additional tax assessment made by the Tax Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Tax Administrator; and provided further that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and the additional tax is paid within three (3) months after the final determination of the federal tax liability.

D. Computed penalties of less than five dollars (\$5.00) for a first violation shall not be assessed. However, notification to the taxpayer of a first time violation will be made.

E. The Tax Administrator may abate charges for penalty, interest or late filing fees for good cause shown.

**183.11            COLLECTION OF UNPAID TAXES AND REFUNDS OF  
OVERPAYMENTS.**

A. All taxes imposed by this Chapter shall be collectible by suit as other debts of like amount are recoverable, together with any interest, penalties and fees, and attorneys' documented fees incurred by the City with regard to that litigation; any legal services rendered leading up to litigation and any legal services rendered in connection with collection efforts whether or not litigation results; and any agency fees incurred by the City in connection with collection efforts. No additional assessment shall be made after three (3) years from the time the tax was due or the return was filed, whichever is later; provided however, there shall be no period of limitation on an additional assessment in a case of a return that omits gross income in excess of twenty-five per cent (25%) of that required to be reported 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 Administrator 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 refund is made within the time specified in Ohio R. C. 718.12.

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, with the following exception: No interest shall be allowed on any overpayment that is refunded within ninety (90) days after the final filing date of the annual return or ninety (90) days after the complete return is filed, whichever is later. 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.

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

**183.12            BOARD OF TAX APPEALS.**

A. A Board of Tax Appeals, consisting of a chairperson and two members to be appointed by Council, is hereby created and shall be maintained to hear appeals. The members of the Board of Review shall be appointed for a term of two years; however, the members of the first Board of Review shall be appointed for one, two and three years respectively. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions.

Any hearing by the Board shall be conducted privately and the provisions of section 38.09 with reference to the confidential character of information required to be disclosed by the Chapter shall apply to such matters as may be heard before the Board on appeal.

B. All rules and regulations and amendments or changes thereto which are adopted by the Tax Administrator under the authority conferred by this Chapter, must be approved by the Board of Review before the same become effective. After such approval, such rules, regulations, amendments and changes shall be open to public inspection. The Board shall hear and pass on appeals from any ruling or decision of the Tax Administrator, and, at the request of the taxpayer or Tax Administrator, is empowered to substitute alternate methods of apportionment.

C. Whenever the Tax Administrator issues a decision regarding an income tax obligation that is subject to appeal as provided in this section, or in an ordinance or regulation of the Municipality, the Tax Administrator shall notify the taxpayer in writing 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.

D. Any person who is aggrieved by a decision by the Tax Administrator 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 Administrator has issued the decision.

E. The imposition of penalty and interest as prescribed in the codified ordinance of the Municipality is not a sole basis for an appeal, unless the appellant can show that the charges assessed were either unlawful or incorrect.

F. The Board of Review shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives a hearing. 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.

G. The Board may affirm, reverse, or modify the Tax Administrator'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 Administrator may appeal the Board's decision as provided in section 5717.011 of the Ohio Revised Code.

H. Each 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 a Board of Review created pursuant to this section are not meetings of a public body subject to section 121.22 of the Ohio Revised Code.

### **183.13 ALLOCATION OF FUNDS**

The funds collected under the provisions of this chapter shall be allocated in such manner as may be determined by Council.

### **183.14 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY OR JOINT ECONOMIC DEVELOPMENT DISTRICT.**

A. Every individual taxpayer who resides in the Municipality who receives net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside of the Municipality, if it appears that he has paid a municipal income tax on the same income taxable under this Chapter to another municipality, shall be allowed a credit against the tax imposed by this Chapter of the amount so paid by him or on his behalf to such other municipality. The credit shall not exceed one-half of one percent (.5%) of the income taxable by this Chapter on such income earned in such other municipality or municipalities where such tax is paid.

B. The Municipality shall grant a credit against the tax imposed by this Chapter to every taxpayer who works in a joint economic development zone created under section 715.691 or a joint economic development district created under section 715.70, 715.71, or 715.72 of the Ohio Revised Code. The credit shall not exceed one-half of one percent (.5%) of the income taxable by this Chapter on such income earned in such joint economic development zone or joint economic development district where such tax is paid.

C. Effective with the 2004 tax year, 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, limited to one-half of one percent (.5%) of the income taxed by another municipality and paid to the first municipal corporation with respect to such income or wages.

D. In no instance shall the amount of credit allowed be more than the amount of tax paid to another municipality, or to a joint economic development zone or joint economic development district.

E. A claim for refund or credit under this section shall be made in such manner as the Tax Administrator may by regulation provide.

#### **183.15 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER**

A. This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all the taxes levied hereunder are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Sections 183.11 and 183.99.

B. Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 183.05 and 183.06 as though the same were continuing.

#### **183.16 INFORMATION SUBMISSION BY LANDLORDS.**

A. On or before July 1<sup>st</sup> of each year, all property owners who rent to tenants of residential, commercial or industrial premises, shall file with the Tax Administrator, a report showing the name(s) and address (and phone number, if available) of each such tenant who occupies residential, commercial or industrial premises within the Municipality. The list shall also include all name(s) and address (and phone number, if available) of any tenant who has vacated the property in the preceding twelve (12) month period and must include date vacated and any forwarding address. This information may also be requested at any time under audit by the Tax Administrator.

B. Such report shall be in writing, and shall be delivered to the Tax Administrator by one of the following methods:

1. Regular US mail delivery to the Income Tax Department
2. Delivered by electronic mail (E-mail) directly to the Income Tax Department
3. Facsimile transmission directly to the Income Tax Department
4. Hand delivery directly to the Income Tax Department

Forms and instruction for reporting shall be made available on the Municipality's website.

C. For purposes of this section, "tenant" means:

1. If there is a written lease or rental agreement, the person(s) who signed the

- written lease or rental agreement with the owner or their agent.
2. If there is an oral lease or rental agreement, the person(s) who entered into the oral lease or rental agreement with the owner or their agent.

D. Failure to comply with this section will result in applicable charges for failure to file a required report or document, and shall be treated as a non-filed municipal income tax return for purposes of legal recourse to enforce.

1. (a) Whoever violates or fails to comply with any provision of this section is guilty of a minor misdemeanor and shall be fined not more than \$100.00. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) Whoever violates or fails to comply with any provision of this section, and has a previous conviction under this chapter, is guilty of a misdemeanor of the third degree and shall be fined not more than \$500.00 or imprisoned not more than sixty (60) days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

#### **183.17 SAVING 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 is 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 thereof, not been included therein.

#### **183.99 VIOLATIONS AND PENALTIES.**

A. Any person who shall:

1. Fail, neglect or refuse to make any return or declaration required by this Chapter; or

2. Knowingly make an incomplete, false or fraudulent return; or
3. Willfully 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 Administrator; or
5. Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or his employer's books, records, papers, or federal income tax returns; or
6. Fail to appear before the Tax Administrator and to produce his or his employer's books, records, papers or federal income tax returns upon order or subpoena of the Tax Administrator; or
7. Refuse to disclose to the Tax Administrator any information with respect to such person's or such person's employer's income or net profits; or
8. Willfully give to an employer by an employee false information as to his true name, correct social security number and residence address, or the failure of such employee to promptly notify an employer of any change in residence address and date thereof; or
9. Failure on the part of any employer to maintain proper records of employees' residence addresses, total wages paid and Municipal tax withheld, or to knowingly give the Tax Administrator false information; or
10. Fail to comply with the provisions of this Chapter or any order or subpoena of the Tax Administrator; or
11. Willfully fail or willfully refuse to make any payment on the estimated tax for any year or part of any tax year as required by section 183.07; or
12. Fail to cause the tax withheld from the qualifying wages of the employees pursuant to this Chapter to be paid to the Municipality in accordance with the provisions of section 183.06; or
13. 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;

for which violation no penalty is otherwise provided, is guilty of a misdemeanor in the first degree and shall be penalized as provided in the General Offenses Code.

B. All prosecutions under this section must be commenced within the time specified in Ohio R.C. 718.12.

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 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. (ORC 718.12)

D. 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. The term "person" as used in this section shall, in addition to the meaning prescribed in section 183.02, 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.



This Ordinance is an emergency measure made necessary to protect the health, safety and welfare of the Village of West Liberty, Ohio and shall be in effect the after the signing of the Mayor and Clerk for the Village of West Liberty.

1<sup>st</sup> Reading: March 25, 2013

Vote: Yeas: 6 Nays: 0

2<sup>nd</sup> Reading: April 8, 2013

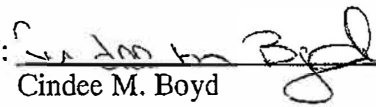
Vote: Yeas: 6 Nays: 0

3<sup>rd</sup> Reading: April 22, 2013

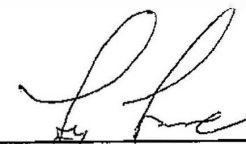
Vote: Yeas: 6 Nays: 0

PASSED: April 22, 2013

SIGNED:   
Mayor Gregory J. Hostetler

ATTEST:   
Cindee M. Boyd  
Clerk/Treasurer

APPROVED: April 22, 2013

SIGNED:   
President of Council  
Larry Lance