

CHAPTER 791

Earned Income Tax

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CROSS REFERENCES

- Taxation generally - see CHTR. Art. VIII
- Payroll deductions - see Ohio R.C. 9.42
- Municipal income taxes - see Ohio R.C. Ch. 718
- State Income Tax - see Ohio R.C. Ch. 5747

791.01 LEVY OF TAX; PURPOSE.

To provide funds for the purposes of general municipal operations, procurement of fixed assets or permanent improvements, payment of debt charges, the elimination of deficits in Village funds and for all other lawful purposes, there shall be, and is hereby levied a tax on qualifying wages as defined in this Chapter, on net profits, and on all other taxable income, as hereinafter provided.

(Ord. 2007-55. Passed 12-11-07.)

791.02 DEFINITIONS.

For the purposes of this chapter the terms, phrases, words and their derivative shall have the meanings given in the next succeeding sections. The singular shall include the plural, and the masculine shall include the feminine and the neuter. As used in this chapter:

- (a) "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 set forth in Sections 718.01(A)(1) of the Revised Code.
- (b) "Administrative Rulings" mean the rulings issued by the Tax Administrator, upon the request of a taxpayer or employer, interpreting this chapter and the Rules and Regulations. Administrative Rulings shall be binding and effective upon issuance as to the taxpayer or employer requesting the ruling.
- (c) "Administrator" means the person designated to administer and enforce the provisions of the Village Income Tax Ordinance, who also may be referred to in this Chapter as the "Tax Administrator."
- (d) "Association" means any partnership, limited partnership, limited liability company, limited liability partnership, Subchapter S corporation ("S corporation") as defined in the Internal Revenue Code, or any other form of unincorporated business or enterprise taxed on a pass-through basis under the Internal Revenue Code. The terms "association," "pass-through entity," and "unincorporated business entity" are synonymous for purposes of this Chapter and the Rules and Regulations.
- (e) "Board of Review" means the Board created by and constituted as provided in Section 791.15 of this Chapter.
- (f) "Board of Tax Appeals" means the state board created pursuant to Section 5703.02 of the Revised Code.
- (g) "Business" means any enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, including but not limited to the renting or leasing of property, real, personal or mixed. For purposes of determining if "business is conducted within the Village," any direct and/or indirect ownership of an interest in an association, pass-through entity or unincorporated business entity that conducts business within the Village is considered included.
- (h) "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, or any unincorporated entity treated as a corporation for federal income tax purposes. "Corporation" also includes a combined company, an electric company and a telephone company, as defined in Section 5727.01 of the Revised Code.
- (i) "Employee" means one who works for qualifying wages in the service of an employer.
- (j) "Employer" means an individual, partnership, association corporation governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a qualifying wage basis.
- (k) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
- (l) "Gross receipts" means total revenue from any source whatever.
- (m) "Intangible income" means that income specified in Section 718.01(A)(5) of the Revised Code including any of the following types of income: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange or other disposition of intangible property including, but not limited to, investments, deposits, money or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, tradenames, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards or other income associated with, attributable to or derived from any lottery winnings or other similar games of chance.

- (n) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.
- (o) "Net profits" mean (i) if the taxpayer is a corporation, the corporation's "adjusted federal taxable income" as that term is defined in Sections 718.01(A)(1)(a)-(f) of the Revised Code; (ii) if the taxpayer is an "association," "pass-through entity," or "unincorporated business entity," "adjusted federal taxable income" as that term is defined in Section 718.01(A)(1)(g) of the Revised Code; and (iii) if the taxpayer is an individual, the individual's profit, other than amounts specifically excluded in Section 718.01(F) of the Revised Code, required to be reported on federal Schedule C, Schedule E, or Schedule F, as provided by the Internal Revenue Service. The "net profits" of a taxpayer shall be adjusted in accordance with the provisions of this Chapter and the Rules and Regulations.
- (p) "Nonresident" means an individual domiciled outside the Village of Gates Mills, Ohio.
- (q) "Nonresident owner" means an individual domiciled outside the Village who has a direct or indirect ownership interest in an association, pass-through entity or unincorporated business entity that conducts business in the Village or a corporation that has a direct or indirect ownership interest in an association, pass-through entity or unincorporated business entity that conducts business in the Village.
- (r) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Village.
- (s) "Ohio Revised Code" means the codified statutes of the State of Ohio, as amended.
- (t) "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.
- (u) "Owner" means an individual, partner, member, or any other person having an ownership interest in an association, pass-through entity, or unincorporated business entity.
- (v) "Pass-through entity" means a partnership, limited liability company, S corporation or any other type of entity the income or profits of which are given pass-through treatment under the Internal Revenue Code. "Income from a pass-through entity" includes 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.
- (w) "Person" means individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity. With respect to provisions of this chapter that impose or prescribe a penalty, the term "person" shall mean the owners of an association, pass-through entity and unincorporated business entity and the officers of a corporation.
- (x) "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.
- (y) "Qualifying wages" means wages, as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as provided in division (A)(2) of Section 718.03 of the Revised Code. "Qualifying wages" includes compensation attributable to a nonqualified deferred compensation plan or program as defined in Section 3121(v)(2)(C) of the Internal Revenue Code and compensation arising from the sale, exchange or other disposition of a stock option, the exercise of a stock option, or the sale, exchange or other disposition of stock purchased by the stock option. "Qualifying wages" does not include compensation deferred before January 1, 2008, to the extent that the deferred compensation does not constitute "qualifying wages" when paid or distributed.
- (z) "Resident" means an individual domiciled in the Village.
- (aa) "Resident owner" means an individual domiciled in the Village who has an interest in an association, pass-through entity or unincorporated business entity.
- (bb) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Village.

(Ord. 2007-55. Passed 12-11-07.)

(cc) “Royalty Income” means income earned by a taxpayer from a royalty interest in the production of an oil or gas well, whether managed, extracted or operated by the taxpayer individually or through an agent or other representative, shall be included in the computation of net profits from a business activity to the extent that such royalty interest constitutes a business activity of the taxpayer. Where the gross income received by a taxpayer from royalty interest in the production of an oil or gas well in a taxable year exceeds one thousand dollars (\$1,000), it shall be prima facie evidence that the income was derived from a business activity of such taxpayer and the net income from such royalty interest shall be subject to tax.

(Ord. 2009-10. Passed 6-9-09.)

- (dd) “Rules and Regulations” mean the Rules and Regulations promulgated by the Tax Administrator and approved by the Board of Review.
- (ee) “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.
- (ff) “State” means the State of Ohio.
- (gg) “Tax Commissioner” means the Tax Commissioner of the State of Ohio.
- (hh) “Taxable income” means all qualifying wages, net profits and all other income from whatever source derived set forth in Section 791.03 of this Chapter and the Rules and Regulations as taxable.
- (ii) “Taxable Situs” means that portion of a taxpayer’s net profits attributable to the Village where the taxpayer conducts a business or profession both within and without the Village, determined in accordance with Section 718.02 of the Ohio Revised Code.
- (jj) “Taxable year” means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.
- (kk) “Taxpayer” means a person subject to the tax imposed by this chapter, whether the tax is imposed on the taxable income of the entity in the hands of the entity or on the taxable income from the entity in the hands of the owners of the entity. “Taxpayer” does not include any person that is a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes, but “taxpayer” includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary.
- (ll) “Unincorporated Business Entity” means either an “association,” “pass-through entity” or “corporation,” determined by the treatment afforded such entity for federal income tax purposes.
- (mm) “Village” means the Village of Gates Mills, Ohio.

(Ord. 2007-55. Passed 12-11-07.)

791.03 IMPOSITION OF INCOME TAX.

For the purposes specified in Section 791.01, on and after January 1, 1968, an annual tax of one and one-half percent (1.5%) per annum shall be imposed upon the hereinafter specified income; provided that on an after July 1, 1968, the rate of tax shall be a total of one percent (1%) per annum. Such tax shall be imposed upon all taxable income as follows:

- (a) On all qualifying wages, net profits and other taxable income earned and/or received on and after January 1, 1968 by residents of the Village;
- (b) (1) On all qualifying wages, earned and/or received on and after January 1, 1968, by nonresidents of the Village for work done or services performed or rendered within the Village or attributable to the Village; on all net profits earned and/or received by a nonresident from the operation or conduct of any business or profession within the Village; and on all other taxable income earned and/or received by a nonresident derived from or attributable to sources, events or transactions within the Village;
- (2) For nonresidents employed at a place of business or profession within the Village, only those qualifying wages earned and/or received by such nonresident that are specifically attributable to a place or location worked that is outside the Village will be treated as earned outside the Village;
- (c) (1) On the portion attributable to the Village of the net profits earned and/or received on and after January 1, 1968, of all resident associations, pass-through entities or other unincorporated business entities treated as a pass-through entity for federal income tax purposes or professions or other activities, derived from sales made, work done, services performed or rendered, and business, or other activities conducted in the Village and/or derived from

sales made, work done, services performed or rendered and business or other activities attributable to the Village;

- (2) On the portion of the distributive share of the net profits earned and/or received on and after January 1, 1968, of a resident partner or owner of a resident association, pass-through entity or other unincorporated business entity treated as a pass-through entity for federal income tax purposes not attributable to the Village and upon which the Village's income tax has not been imposed and levied;
- (d) (1) On the portion attributable to the Village of the net profits earned and/or received on and after January 1, 1968, of all nonresident associations, pass-through entities or other unincorporated business entities treated as a pass-through entity for federal income tax purposes, professions or other activities, derived from sales made, work done, services performed or rendered, and business, or other activities conducted in the Village and/or derived from sales made, work done, services performed or rendered and business or other activities attributable to the Village, whether or not such association, pass-through entity or other unincorporated business entity treated as a pass-through entity for federal income tax purposes has an office or place of business in the Village;
- (2) On the portion of the distributive share of the net profits earned and/or received on and after January 1, 1968, of a resident partner or owner of a nonresident association, pass-through entity or other unincorporated business entity treated as a pass-through entity for federal income tax purposes not attributable to the Village and upon which the Village's income tax has not been imposed and levied from wherever such business is located;
- (e) On the portion attributable to the Village of the net profits earned and/or received on and after January 1, 1968, of all corporations and all other entities and business activities not defined herein as associations, pass-through entity or unincorporated business entity treated as a pass-through entity for federal income tax purposes derived from sales made, work done, services performed or rendered, and business, or other activities conducted in the Village, and/or derived from sales made, work done, services performed or rendered, and business, or other activities attributable to the Village, whether or not such corporations, entities or business activities have an office or place of business in the Village;
- (f) On the net profits of an electric company, combined company or telephone company apportioned and attributable to the Village in accordance with Section 718.01(F)(6) of the Revised Code and Chapter 5745 of the Revised Code;
- (g) On all income derived from prizes, awards, gambling, wagering, lotteries or other similar games of chance by a resident or nonresident of the Village within the Village in an amount in excess of two hundred fifty thousand dollars (\$250,000) or on the basis of activities conducted within the Village, on or after January 1, 2004. Lottery gambling and loses are deductible against lottery and gambling winnings. The Tax Administrator shall promulgate rules and regulations to determine the manner in which to determine such losses.
- (h) On all income earned and/or received from covenants not to compete or similar agreements and on all income attributable to cancellation of indebtedness to the extent reported on the taxpayer's federal income tax return;
- (i) On all guardian, executor, conservator, trustee or administrator fees earned and/or received by a taxpayer in connection with the operation or conduct of a business or profession;
- (j) On all other compensation, net profits and income earned and/or received by the taxpayer that is not specifically exempted from the tax imposed by this chapter as set forth in Section 791.06 of this Chapter and Section 718.01(F) of the Revised Code;
- (k) For taxable years beginning on or after January 1, 2008, the net profits from a business or profession shall be taxed only to the extent of the taxpayer's adjusted federal taxable income except that nothing shall be construed as limiting the ability of the Tax Administrator to administer, audit, or enforce the provisions of this Chapter including making all necessary adjustments and allocations to adjusted federal taxable income to produce a fair and proper allocation of net profits to the Village, except this Section 791.07(k) shall not apply to any taxpayer required to file a return under Section 5745.03 of the Revised Code or to the net profits from a sole proprietorship;

- (l) For taxable years beginning on or after January 1, 2008, in the case of a taxpayer who has a net profit from a business or profession that is operated as a sole proprietorship, or in the case of a taxpayer who has a net profit from a business and the taxpayer is an individual, the Village shall not tax or use as the base for determining the amount of the net profit that shall be considered as having a taxable situs in the Village, an amount other than the net profit required to be reported on Internal Revenue Service Schedules C or F from such sole proprietorship for the taxable year; and
- (m) For taxable years beginning on or after January 1, 2008, in the case of a taxpayer who has a net profit from rental activity required to be reported on Internal Revenue Service Schedule E, the Village shall not tax or use as the base for determining the amount of the net profit that shall be considered as having a taxable situs in the Village, an amount other than the net profit from rental activities required to be reported by the taxpayer on Schedule E for the taxable year.

(Ord. 2007-55. Passed 12-11-07.)

- (n) Royalty income on and after January 1, 2009. (Ord. 2009-10. Passed 6-9-09.)

791.04 EFFECTIVE PERIOD.

The Village income tax shall be levied, imposed, collected and paid on any and all qualifying wages, net profits and taxable income as provided in Section 791.03, earned and/or received on and after January 1, 1968. (Ord. 2007-55. Passed 12-11-07.)

791.05 DETERMINATION OF TAX ALLOCATION.

(a) Method of Determination. This Section 791.05 does not apply to taxpayers that are subject to and required to file reports under Chapter 5745 of the Revised Code.

- (1) Except as otherwise provided in Section 791.05(a)(4), for taxable years beginning on or after January 1, 2008, the net profits from a business or profession conducted both within and without the Village shall be considered as having a taxable situs in the Village for purposes of imposing the Village income tax to the extent of the amount determined by multiplying the entire net profits by a business allocation percent determined by the average ratio of the following:

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

As used in this subsection (a)(1)(a), "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 thereof by eight (8).

- B. Wages, salaries and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the Village to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the Village under Section 718.011 of the Revised Code.
- C. Gross receipts of the business or profession from sales made and services performed during the taxable period in the Village to gross receipts of the business or profession during the same period from sales and services, wherever made or performed. In the event that the foregoing apportionment formula does not produce an equitable result, another basis may be substituted, under the Rules and Regulations, so as to produce an equitable result.
- (2) For taxable years beginning on or after January 1, 2008, no taxpayer shall use the books and records method of apportionment. Except as otherwise provided in Section 718.02 of the Revised Code and subsection (a) hereof, all taxpayers shall use the statutory apportionment formula set forth in this section.
- (3) Except as otherwise provided in subsection (d) hereof, for taxable years beginning on or after January 1, 2008, the net profits from rental activity not constituting a business or profession shall be subject to tax by the Village only if the property generating the net profit is located in the Village.

- (4) This Section shall not apply to individuals who are residents of the Village and, except as otherwise provided in Section 718.01 of the Revised Code, the Village shall impose its tax on all income earned and/or received by residents of the Village from whatever source derived in accordance with Section 791.03 of this chapter.
- (b) Sales Made in the Village. As used in Section 791.05(a)(3)(c), “sales made in the Village” means:
- (1) All sales of tangible personal property delivered within the Village regardless of where title passes if shipped or delivered from a stock of goods within the Village;
 - (2) All sales of tangible personal property delivered within the Village regardless of where title passes even though transported from a point outside the Village, if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the Village, and the sales result from such solicitation or promotion; or
 - (3) All sales of tangible personal property shipped from a place within the Village to purchasers outside of the Village regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.
- (c) Total Allocation. Add together the percentages determined in accordance with Section 791.05 (a)(1)(a), (a)(1)(b), and (a)(1)(c), or such of the aforesaid percentages as are applicable to the particular taxpayer, and divide the total so obtained by the number of percentages used in deriving the total in order to obtain the business allocation percentage referred to in Section 791.05(a)(1). A factor is applicable even though it may be allocable entirely within or without the Village.
- (d) Rentals. Rental income received by a taxpayer shall be included in the computation of net profits from business activities under divisions (c) to (e) of Section 791.03, only if and to the extent that the rental, ownership, management or operations of the real estate from which such rentals are derived, whether so rented, managed or operated by a taxpayer individually or through agents or other representatives, constitutes a business activity of the taxpayer in whole or in part.
- Where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of one hundred twenty-five dollars (\$125.00) per month, it shall be prima-facie evidence that the rental, ownership, management or operation of such properties, is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax. However, in the case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits, of the lessee, whether or not such rental exceeds of one hundred twenty-five dollars (\$125.00) per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds of one hundred twenty-five dollars (\$125.00) per month. It is provided further that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds of one hundred twenty-five dollars (\$125.00) per month.
- (e) Operating Loss; Carry Forward.
- (1) The portion of a net operating loss sustained in any taxable year subsequent to January 1, 1968, allocable to the Village may be applied against the portion of the net profit of succeeding tax years allocable to the Village, until exhausted but in no event for more than five (5) taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.
 - (2) The portion of 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 Tax Administrator shall provide by Rules and Regulations the manner in which such net operating loss carry forward shall be determined.
- (Ord. 2007-55. Passed 12-11-07.)

791.06 EXEMPTIONS.

The tax provided for in this chapter shall not be levied on the following:

- (a) Pay or allowance of active members of the Armed Forces of the United States or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities.

- (b) Poor relief, unemployment insurance benefits, old age pensions or similar payments including disability benefits, received from local or state governments, or from the Federal Government, or charitable, religious or educational organizations.
- (c) Proceeds of insurance paid by reason of the death of the insured; pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.
- (d) Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities when conducted by bona fide charitable, religious or educational organizations or associations.
- (e) Alimony received.
- (f) Personal earnings of any natural person under eighteen years of age.
- (g) Compensation for personal injuries or for damages to property by way of insurance or otherwise.
- (h) Interest, dividends and other revenue from intangible property described in Section 718.01(A)(5) of the Revised Code.
- (i) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State which the Municipality is specifically prohibited from taxing, and income of a decedent's estate during the period of administration, except such income from the operation of a business.
- (j) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce.
- (k) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of municipalities to impose net income taxes.
- (l) Gains from involuntary conversion; cancellation of indebtedness, to the extent exempt from federal income tax; interest on Federal obligations; items of income already taxed by the State that the Village is specifically prohibited from taxing; and income of a decedent's estate during the period of administration, except such income from the operation of a business;
- (m) An S corporation shareholder's distributive share of net profits of the S corporation other than any portion of the distributive shares of net profits that represents wages as defined in Section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in Section 1402(a) of the Internal Revenue Service Code.

(Ord. 2007-55. Passed 12-11-07.)

791.07 RETURNS.

(a) Date for Filing Returns.

- (1) Each taxpayer who engages in business or whose qualifying wages are subject to the tax imposed by this chapter, except as herein provided, shall, whether or not a Village income tax is due thereon, make and file a return on or before April 30 of the year following January 1, 1968, and on or before April 30 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or period.
- (2) Unless the filing exemption in division (e) of this section applies, for taxable years beginning after 2007, each taxpayer shall, whether or not a Village income tax is due thereon, make and file an annual Village income tax return or report on the fifteenth (15th) day of the fourth (4th) month following the end of the taxpayer's taxable year.
- (3) No taxpayer shall be required to file an annual Village income tax return or report prior to the filing date for the corresponding tax reporting period as prescribed for such taxpayer under the Internal Revenue Code.
- (4) Tax returns required to be filed under this section shall be deemed filed when postmarked by the United States Postal Service or the date of receipt recorded by authorized delivery service as defined in Sections 5703.056 of the Revised Code. Tax returns otherwise delivered to the Tax Administrator during normal business hours shall be deemed filed on the date received.
- (5) The Tax Administrator is authorized to provide by regulation that the return of an employer, showing the amount of tax deducted by the employer from the qualifying wages of an employee,

and paid by him or them to the Tax Administrator shall be accepted as the return required of any employee whose sole income, subject to tax under this chapter, is such qualifying wages. This filing exemption is limited to nonresident taxpayers whose sole income is qualifying wages for which the tax imposed by this chapter has been withheld and remitted to the Village by the employer.

(b) Form and Content of Return. The Village income tax return shall be filed with the Tax Administrator on a form prescribed by and obtainable upon request from the Tax Administrator, setting forth:

- (1) The aggregate amounts of all qualifying wages net profits and all other taxable income earned and/or received by the taxpayer during the taxable year and subject to the Village income tax; and lottery winnings and other gambling winnings in an amount in excess of two hundred fifty thousand dollars (\$250,000.00)
- (2) The amount of the tax imposed by this chapter on such qualifying wages, net profits; and all other taxable income;
- (3) Such other pertinent statements, schedules, information, returns, copies of federal or state tax returns or any other information as the Tax Administrator may require; and
- (4) In accordance with Section 718.051 of the Revised Code and the Rules and Regulations, taxpayers subject to the Village income tax on the net profits from a business or profession may file the Village income tax return by using the Ohio Business Gateway.

(c) Extension of Time for Filing Returns.

- (1) Except as otherwise provided in division (g) of this section, any taxpayer who has requested an extension for filing a federal income tax return may request an extension for filing the Village income tax return for the same taxable year by filing a copy of the request for federal extension with the Tax Administrator in accordance with Section 718.05 of the Revised Code and the Rules and Regulations. Any taxpayer not required to file a federal income tax return may request an extension for filing the Village income tax return in accordance with Section 718.05 of the Revised Code and the Rules and Regulations.
- (2) Requests for extensions are not automatic and may be denied in accordance with Section 718.05 of the Revised Code.
- (3) If granted, request for extensions filed before January 1, 2008, shall extend the due date of the Village income tax return for a period not to exceed six months or one month beyond any extension requested of, or granted by, the Internal Revenue Service for filing the federal income tax return.
- (4) For taxable years beginning after 2007, if the request for extension to file the Village income tax return is granted, the extended due date 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.
- (5) The granting of an extension to file the Village income tax return does not extend the last date to pay any Village income tax due without penalty or interest in accordance with Sections 791.09(a) and 791.09(b) of this chapter.
- (6) No late filing penalty shall be imposed if the Village income tax return is filed and the final tax paid on or before the due date as extended.
- (7) In accordance with Section 718.051 of the Revised Code and the Rules and Regulations, taxpayers subject to the Village income tax on the net profits from a business or profession that have received an extension to file the federal income tax return by using the Ohio Business Gateway will receive an extension to file the Village income tax return for the same taxable year provided that, the requirements of Section 718.051 of the Revised Code are met. In accordance with that Section, the extended due date will be the last day of the same month to which the due date for filing the federal return has been extended.
- (8) Extensions to file the Village income tax return granted through the Ohio Business Gateway do not extend the time to pay any Village income tax due without penalty or interest in accordance with Sections 791.09(a) and 791.09(b) of this chapter.

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

(e) Amended Returns.

- (1) Where necessary an amended return shall be filed in order to report additional income and pay any additional Village income tax due, or claim a refund of Village income tax overpaid, subject to the requirements, limitations, or both, contained in Sections 791.11 and 791.12 of this Chapter. Such amended return shall be on a form prescribed by and obtainable upon request from the Tax Administrator. A taxpayer may not change the method of accounting, filing status or method of apportionment of the net profits after the due date for filing the original Village income tax return.
- (2) Within three months from the final determination of any federal tax liability affecting the taxpayer's Village tax liability, such taxpayer shall make and file an amended Village return showing income subject to the Village income tax based upon such final determination of federal tax liability, and pay any additional Village income tax shown due thereon or make claim for refund of any overpayment.

(Ord. 2007-55. Passed 12-11-07.)

- (3) Taxpayers owing no tax may file, in lieu of a tax return, an Exemption Certificate prescribed from time to time by the Village.

(Ord. 2012-24. Passed 7-10-12.)

791.08 PAYMENT OF TAX.

(a) Payment of Tax on Filing of Return.

- (1) The taxpayer making a Village income tax return shall, at the time of the filing thereof, pay to the Tax Administrator the amount of taxes shown as due thereon. However, where any portion of the tax so due has been deducted at the source pursuant to the provisions of Section 791.08(b) of this chapter, or where any portion of the tax has been paid by the taxpayer pursuant to the provisions of Section 791.08(c), or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 791.12 of this chapter, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing the return.
- (2) Subject to the limitations set forth in Section 791.11(b), any taxpayer who has overpaid the amount of tax to which the Village is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment, or part thereof, shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be assessed, collected or refunded.

(b) Collection at Source.

- (1) In accordance with this Chapter, and the Rules and Regulations, each employer, agent of any employer or other payer within or doing business within the Village who employs one or more persons shall deduct when any qualifying wages are earned and/or received by the taxpayer, the amount of Village income tax imposed by Section 791.03 of this chapter on the gross qualifying wages earned and/or received by the taxpayer and except as otherwise provided in subsections (f) and (g) hereof shall, on or before the twentieth day of the month following the close of each calendar quarter make a return and pay to the Tax Administrator the amount of Village income taxes so deducted from such qualifying wages, subject to the provisions of subsections (c) to (e) hereof. Returns shall be on a form or forms prescribed by or acceptable to the Tax Administrator, and shall be subject to the Rules and Regulations prescribed therefore by the Tax Administrator. Such employer shall be liable for the payment of the Village income tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.
- (2) Each employer, agent of any employer or other payer in collecting the Village income tax shall be deemed to hold the same, until payment is made by such employer, agent of any employer or other payer to the Village, as a trustee for the benefit of the Village and any such tax collected by such employer, agent of any employer or other payer from his employees shall, until the same is paid to the Village, be deemed a trust fund in the hands of such employer, agent of any employer or other payer. Each employer, agent of any employer and other payer shall be liable for the payment of Village income tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.
- (3) Each employer, agent of any employer or other payer who deducts and withholds Village income tax of one hundred dollars (\$100.00) or more per month shall pay to the Tax Administrator before the twentieth of the following month the amount of taxes so deducted on a monthly basis beginning with the first month the employer, agent of any employer or other payer exceeds one hundred dollars (\$100.00) in Village income taxes withheld.
- (4) Payments shall be reported on a form or forms prescribed by and obtainable upon request from the Tax Administrator.
- (5) No employer, agent of an employer or other payer shall be required to withhold the Village income tax on qualifying wages or other taxable income paid to domestic servants employed by such employer or other payer exclusively in or about such employer or other payer's residence, even though such residence is in the Village, but such employee shall be subject to all of the requirements of this chapter.
- (6) A. Any person who shall employ or contract for the services of any entertainer, entertainment act, sports event, promotional booth, special event, band, orchestra, rock group, theatrical performance, or
B. Any person who, acting as a promoter, booking agent or employer, engages the services of, or arranges the appearance of any entertainer, entertainment act, sports event, band, orchestra, rock group, theatrical performance in the Village, and who makes any payment arising from said appearance in the Village shall be deemed to be an employer and shall, for purposes of the collection of the Village income tax, be required to withhold, report and remit as required by this section to the Tax Administrator the Village income tax at the rate provided in Section 791.03 hereof, on the gross amount so paid to the entertainer, athlete, etc. on completion of the engagement for the services performed in the Village. The reports required by this section shall be made and filed on forms prescribed by and obtainable from the Tax Administrator.
- (7) Any person, as defined in Section 791.02(w), who rents facilities to any entertainer, entertainment act, sport event, promotional booth, special event, band, orchestra, rock group, theatrical performance for use in performing services in the Village, and who makes any payment arising from said use of facilities shall be deemed to be an employer and shall, for purposes of the collection of the Village income tax, be required to withhold, report and remit as required by this section to the Tax Administrator the Village income tax at the rate provided in Section 791.03 hereof based on the gross amount so paid to the

entertainer, athlete, etc. on completion of the engagement for the services performed in the Village. The reports required by this section shall be made and filed on forms prescribed by and obtainable from the Tax Administrator.

- (8) For taxable years beginning after 2007, no employer or agent of an employer or other payer shall be required to withhold tax with respect to any amount other than qualifying wages. Nothing in this Section prohibits an employer from withholding tax on a basis greater than qualifying wages.
 - (9) Every employer, agent of an employer or other payer required to withhold and remit the Village income tax in accordance with this chapter, shall be directly liable to the Village for the payment of such tax, whether or not actually withheld or collected.
 - (10) For taxable years beginning after 2007, no employer is 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.
 - (11) A. An employee is not relieved from liability for paying the Village income tax by the failure of the employer to withhold the tax as required by this Section 791.08(b) or the employer's exemption from the requirement to withhold the tax.
B. The failure of an employer to remit to the Village the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld.
 - (12) In accordance with Section 718.051 of the Revised Code, the Rules and Regulations of the State Tax Commissioner, this Chapter and the Rules and Regulations, any employer subject to this Section 791.08(b) may report the amount of Village income tax withheld from qualifying wages and remit such amounts by using the Ohio Business Gateway.
- (c) Declarations of Income Not Collected at Source. Every person who anticipates earning and/or receiving any taxable income which is not subject to Section 791.08(b) hereof, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 791.03 hereof shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any. However, if a person's income is wholly from qualifying wages from which the Village income tax will be withheld and remitted to the Village in accordance with Section 791.08(b) hereof, such person need not file a declaration.
- (d) Filing of Declaration.
- (1) For tax years prior to 2008, the declaration required by subsection (c) hereof shall be filed on or before April 30 of each year during the effective period set forth in Section 791.04 or within four months of the date the taxpayer becomes subject to tax for the first time. Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.
 - (2) For taxable years beginning after 2007, the declaration required by Section 791.08(c) shall be filed on or before April 15 of each year during the effective period set forth in Section 791.04 or on or before the fifteenth (15th) day of the fourth (4th) month following the date the taxpayer becomes subject to tax for the first time.
 - (3) For taxable years beginning after 2007, for those taxpayers reporting on a fiscal year or period other than a calendar year, the declaration required by Section 791.08(c) shall be filed on or before the fifteenth (15th) day of the fourth (4th) month after the beginning of each fiscal year or period.
 - (4) In accordance with Section 718.051 of the Revised Code, the Rules and Regulations of the State Tax Commissioner, this Chapter, and the Rules and Regulations, any taxpayer subject to the Village income tax on the net profits from a business or profession may file declarations of estimated net profits and pay estimated Village tax due thereon by using the Ohio Business Gateway.
- (e) Form of Declaration.
- (1) The declaration required by Section 791.08(c) hereof shall be filed upon forms prescribed by and obtainable from the Tax Administrator, or acceptable generic form, and credit shall be taken for Village income tax to be withheld from any portion of such income. In

accordance with the provisions of Section 791.12 , credit may be taken for Village income tax to be paid to or 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.
- (f) Payment to Accompany Declaration.
- (1) For taxpayers who are individuals, the declaration of estimated Village income tax required by Section 791.08(c), shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of such taxpayer's estimated Village income tax for the taxable year, and at least twenty-two and one-half percent (22.5%) of such estimated Village income tax shall be paid on or before each of the last day of the seventh, tenth and thirteenth months after the beginning of the taxable year.
- (2) For taxpayers that are not individuals, the declaration of estimated Village income tax required by Section 791.08(c), shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of such taxpayer's estimated Village income tax for the taxable year, and at least twenty-two and one-half percent (22.5%) of such estimated Village tax shall be paid on or before each of the fifteenth (15th) day of the sixth, ninth and twelfth months after the beginning of the taxable year.
- (3) No declaration shall be deemed filed unless accompanied by the required payment of estimated Village income tax.
- (4) Declarations required to be filed by Section 791.08(c), shall be deemed filed when the declaration with required payment are postmarked by the United States Postal Service or the date of receipt recorded by authorized delivery service as defined in Section 5703.056 of the Revised Code. Declarations otherwise delivered with the required payment to the Tax Administrator during normal business hours shall be deemed filed on the date received.
- (5) A declaration of estimated Village income tax may be amended at any time, in accordance with the Rules and Regulations. 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 set forth in this Section.
- (g) Annual Return. For taxable years beginning after 2008, the annual Village income tax return required to be filed after filing such declaration or amended declaration shall be filed on or before the fifteenth (15th) day of the fourth (4th) month following the end of the taxpayer's taxable year (calendar or fiscal year). Any balance of Village income tax remaining due in accordance with Section 791.08(a) shall be remitted with the Village income tax return.

(Ord. 2007-55. Passed 12-11-07.)

791.09 INTEREST AND PENALTIES.

(a) Interest on Unpaid Tax. All Village income taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of one and one-half percent (1.5%) per month or fraction thereof.

(b) Penalties on Unpaid Tax. In addition to interest as provided in Section 791.09(a) hereof, penalties are imposed on all Village income tax remaining unpaid after it becomes due as follows:

- (1) For failure to pay Village income taxes due other than taxes withheld: one and one-half percent (1.5%) of such outstanding tax per month for each month that the tax remains outstanding or fraction thereof;
- (2) For failure to file an annual Village income tax return by the due date or extended due date: a minimum of twenty-five dollars (\$25.00);
- (3) For failure to remit Village income taxes withheld or required to be withheld from employees: ten percent (10%) of the outstanding unremitted tax per month or fraction thereof for each month that the unremitted tax remains outstanding; and
- (4) In accordance with the Rules and Regulations, the Tax Administrator may impose such other interest and penalty assessment as the Tax Administrator deems necessary for the administration and enforcement of the provisions of this chapter.

(c) Exceptions to Penalties. A penalty shall not be assessed on an additional tax assessment made by the Tax Administrator when a Village income tax return has been filed in good faith and the tax paid thereon within the time prescribed by Section 791.07(a) of this chapter provided that the additional tax assessment shall be paid

within the time prescribed by the Tax Administrator for payment of such additional tax; and provided further, that in the absence of fraud, neither penalty nor interest shall be assessed on any additional Village income tax assessment resulting from a federal audit, providing an amended Village income tax return is filed and the additional Village income tax is paid within three months after a final determination of the federal income tax liability.

(d) Abatement of Interest and Penalty. Upon recommendation of the Tax Administrator, the Board of Review may abate penalty or interest, or both, or upon a written appeal by the taxpayer upon the refusal of the Tax Administrator to recommend abatement of penalty, interest, or both, the Board may nevertheless abate penalty or interest, or both, for reasonable cause shown. The Rules and Regulations may authorize the Tax Administrator to abate penalty, interest, or both, for reasonable cause shown in certain circumstances. (Ord. 2007-55. Passed 12-11-07.)

791.10 VIOLATIONS.

(a) No person shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this chapter;
- (2) Make any incomplete, false or fraudulent return;
- (3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter;
- (4) Fail, neglect or refuse to withhold the tax from his or her employees or remit such withholding to the Administrator;
- (5) Refuse to permit the Administrator, or any duly authorized agent or employee, to examine his or her books, records, papers and Federal Income Tax Returns relating to the income or net profits of a taxpayer;
- (6) Fail to appear before the Administrator and produce his or her books, records, papers or Federal Income Tax Returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator;
- (7) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer;
- (8) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized herein;
- (9) Give to an employer false information as to his or her true name and correct social security number and residence address, or fail to promptly notify an employer of any change in residence address and the date thereof;
- (10) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and Village income tax withheld, or knowingly give the Administrator false information; or
- (11) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.

(b) Limitation on Prosecutions. Prosecutions for an offense made punishable under this chapter shall be commenced within the time provided in Section 718.06 of the Revised Code, which presently reads as follows: Prosecutions for an offense made punishable under a municipal ordinance imposing an income tax shall be commenced within three 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 or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(c) Failure to Procure Forms. The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him or her from making any information return, return or declaration, from filing such form or from paying the tax.

(Ord. 2007-55. Passed 12-11-07.)

791.11 COLLECTION OF UNPAID TAXES; REFUNDS.

(a) Unpaid Taxes Recoverable as Other Debts. All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Except in the case of fraud, omission of a substantial portion of income subject to the 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, that in those cases in which a 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 Administrator shall be one year from the time of the final determination of the Federal tax liability.

(b) Refund of Taxes Erroneously Paid.

- (1) Taxes erroneously paid shall not be refunded unless a claim for refund is made within the time specified in Section 718.06 of the Revised Code which presently reads as follows: Claims for refunds of municipal income taxes must be brought within three years after the tax was due or the return was filed, whichever is later.
- (2) No interest shall be paid by the Village on any refunded overpayment of Village income tax if the overpayment is refunded within ninety (90) days after the due date for filing the Village income tax 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 Village income tax for any taxable year shall be treated as having been paid before the date on which the Village income tax return for that taxable year was due, without regard to any extension of time for filing that return. Interest on any overpayment of Village income tax shall be paid at the rate of interest prescribed by Sections 718.12 and 5703.47 of the Revised Code.

(c) Amounts Less Than One Dollar. Amounts of less than one dollar (\$1.00) shall not be collected or refunded. (Ord. 2007-55. Passed 12-11-07.)

791.12 VILLAGE RESIDENT SUBJECT TO INCOME TAX IN ANOTHER MUNICIPALITY.

(a) Credit.

- (1) A resident of the Village who is required to and does pay, or acknowledges liability for, a municipal tax on or measured by income, to another municipality upon the same income taxable under this chapter, may claim a credit of one-half of the first one percent of tax paid by him or her or on his or her behalf to such other municipality, but not in excess of fifty percent of the tax assessed by this chapter on such income. For the purposes of this section, taxable income shall include the distributive share of net profits of a resident partner or owner of an unincorporated business entity. However, a resident of the Village shall not be entitled to such credit if he or she fails, neglects or refuses to timely file a return or form as is prescribed by the Administrator and required by this chapter.
- (2) In the event a resident is entitled to credit for taxes paid another municipality, such resident is required to file a return on a form in such manner as the Tax Administrator may prescribe.
- (3) Assignment of any claim for refund to which a resident may be entitled from another municipality shall be tentatively accepted as payment of that portion of Village income tax represented by such assignment. However, if satisfactory evidence is offered that the taxpayer is entitled to the claim covered by the assignment, such taxpayer shall not be deprived of credit therefore because of fault or neglect on the part of either municipality.
- (4) In the event such resident fails, neglects or refuses to file such return or form as is prescribed by the Tax Administrator, such resident shall not be entitled to such credit and shall be considered in violation of this chapter for failure to file a return and make payment of taxes due hereunder.
- (5) A resident owner of a pass-through entity that does not conduct business in the Village and that has paid an income tax to another municipality may claim a credit equal to the lesser of (i) the resident owner's proportionate share of the amount, if any, of income tax paid by the pass-through entity to another municipality in the State; or (ii) the resident owner's proportionate share of the amount of Village income tax that would be imposed on the pass-through entity if the pass-through entity conducted business in the Village.
- (6) In no case shall the amount of the credit allowed under division (e) of this Section exceed the tax assessed by this chapter on the resident owner's taxable income subject to tax by another municipality.
- (7) The credits provided in Sections 718.021 and 718.121 of the Revised Code shall be available to residents, if applicable.
- (8) Except as otherwise provided in Sections 718.021, 718.121 and 718.14 of the Revised Code, this chapter and the Rules and Regulations, where a nonresident is subject to the tax imposed by this chapter and is subject to tax on the same taxable income in the municipality where

such nonresident resides, no credit against the Village income tax levied by this chapter shall be allowed.

(b) Claim for Credit. Any claim for credit for taxes paid by a resident to another municipality on the same income taxable under this chapter or claim for or assignment of any refund due to the credit provided for in Section 791.12 must be filed with the Tax Administrator on a form acceptable to the Tax Administrator within three (3) years from the due date of the Village income tax return. If the resident, fails, neglects, or refuses to file such claim for refund or credit within the time prescribed by this section, such failure, neglect, or refusal shall render such credit, claim for refund, or assignment null and void and the resident shall be liable for the full amount of tax assessed by this chapter, together with interest and penalties.

(Ord. 2007-55. Passed 12-11-07.)

791.13 DISBURSEMENT OF FUNDS COLLECTED.

The funds collected under the provisions of this chapter shall be disbursed in the following manner:

- (a) Such part thereof as shall be necessary to defray all expenses of collecting the tax and of administering and enforcing the provisions of this chapter shall be paid.
- (b) The balance remaining after payment of the expenses referred to in subsection (a) hereof shall be deposited in the General Fund for Municipal purposes.

(Ord. 2007-55. Passed 12-11-07.)

791.14 DUTIES AND AUTHORITY OF THE ADMINISTRATOR.

(a) Duty to Receive Tax Imposed; Records and Reports. It shall be the duty of the Administrator to receive the tax imposed by this chapter in the manner prescribe herein from the taxpayers, to keep an accurate record thereof and to report all moneys so received

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

(c) Authority to Make and Enforce Regulations. The Administrator is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review, to adopt, 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 chapter, including provisions for the re-examination and correction of returns.

(d) Authority to Arrange Installment Payments. The Administrator is hereby 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 or she is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owned by him or her under this chapter.

Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand, and the provisions of Sections 791.10 and 791.11(a) shall apply.

(e) Authority to Determine Amount of Tax Due. 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 to the Village from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

(f) Authority to Make Investigations. 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 other person subject to, or whom the 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 due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish, upon written request by the Administrator, or his or her duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(g) Authority to Compel Production of Records. The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him or her 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 or her, whether as parties or witnesses, whenever he or she believes such persons have knowledge of such income or information pertinent to such inquiry.

(h) Refusal to Produce Records. The refusal to produce books, papers, records and Federal Income Tax Returns, or the refusal to submit to an examination by any employer or persons 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 Administrator authorized hereby, shall be deemed a violation of this chapter, punishable as provided in Section 791.99.

(i) Confidential nature of Information Obtained. Any information obtained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes, or except in accordance with proper judicial order. No person shall divulge such information in violation of this section.

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

(k) Authority to Contract for Central Collection Facilities. The Administrator is hereby authorized to enter into an agreement, on behalf of the Village, with the City of Cleveland or any other municipality or Cuyahoga County, to permit it to act as agent for the Village for the purpose of administering this chapter and of providing a central collection facility for the collection of income taxes on behalf of the Village.

(l) Authority to Assign Duties. In the event that an agreement is entered into on behalf of the Village with the City of Cleveland or any other municipality or Cuyahoga County, to act as agent for the Village for the purpose of administering this chapter and providing a central facility for the collection of income taxes, as provided in subsection (k) hereof, then any part or all of the duties and authority of the Administrator may be assigned by such agreement to such municipality or County.

(Ord. 2007-55. Passed 12-11-07.)

791.15 BOARD OF REVIEW.

(a) In General. A Board of Review, (a) consisting of three members to be appointed by the Mayor with the approval and confirmation of Council for a term of one year, is hereby established. The Board shall elect from among its members a chairperson and a Secretary. 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 proceedings. Any hearing before the Board may be conducted in private and the provisions of Section 791.14(i), with reference to the confidential character of information required to be disclosed by this chapter, shall apply to such matters as may be heard in private before the Board on appeal.

(b) Duty to Approve Regulations and to Hear Appeals. All rules and regulations and amendments or changes thereto which are adopted by the Administrator under the authority conferred by this chapter must be approved by the Board of Review before the same become effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator, and, at the request of the taxpayer or Administrator, is empowered to substitute alternative methods of allocation.

(c) Right of Appeal. Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Administrator, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.

In accordance with the procedures set forth in Section 5717.011 of the Revised Code, for matters relating to taxable years beginning on or after January 1, 2008, the taxpayer or Tax Administrator may appeal decisions of the Board of Review to the State Board of Tax Appeals or a court of common pleas as otherwise provided by law.

(Ord. 2007-55. Passed 12-11-07.)

791.16 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 and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all such taxes levied in the aforementioned period are fully paid and until any and all suits and prosecutions for the collection of such

taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 791.10 and 791.11.

(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 791.07(a) and 791.08(b) as though the same were continuing.
(Ord. 2007-55. Passed 12-11-07.)

791.99 PENALTY.

(a) Whoever violates or fails to comply with any of the provisions of this chapter, for which no penalty is otherwise provided, is guilty of a misdemeanor of third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(b) In additions to the penalty provided in subsection (a) hereof, whoever violates Section 791.14(i) of this chapter shall be guilty of an offense subject to immediate dismissal.
(Ord. 2007-55. Passed 12-11-07.)
