

## CHAPTER 171

### Income Tax

EDITOR'S NOTE: See Chapter 173 for income tax effective January 1, 2016.

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#### CROSS REFERENCES

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

#### **171.01 PURPOSE.**

To provide funds for the purposes of general Municipal operation, maintenance, new equipment, extension and enlargement of Municipal service and facilities and capital improvements of the Village, there shall be, and is hereby, levied a tax on salaries, wages, commission and other compensation, and on net profits as hereinafter provided.

(Ord. 225. Passed 12-6-79.)

#### **171.02 DEFINITIONS.**

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

- (a) "Administrator" means the individual appointed by a majority vote of the members of Council, and thereby empowered to administer and enforce the provisions of the Village Income Tax Ordinance.  
(Ord. 90-348. Passed 2-1-90.)
- (b) "Association" means any partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.
- (c) "Board of Review" means the Board created by and constituted as provided in Section 171.10.
- (d) "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, excluding however, all nonprofit corporations which are exempt from the payment of federal income tax.
- (e) "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.
- (f) "Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer.
- (g) "Employer" means an individual, partnership, association, corporation, government body, unit or agency, or other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other basis of compensation.
- (h) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
- (i) "Gross receipts" means the total income from any source whatever.
- (j) "Net profits" means a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for federal income tax purposes, without deduction of taxes imposed by this chapter, federal, state and other taxes based on income; and in the case of an association, without deduction of salaries paid to partners and other owners.
- (k) "Nonresident" means an individual domiciled outside of the Village.
- (l) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Village.
- (m) "Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any unincorporated entity, means the partners or members thereof, and as applied to corporations, the officers thereof.
- (n) "Resident" means an individual domiciled in the Village.
- (o) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Village.
- (p) "Taxable income" means wages, salaries, and other compensation paid by an employer or employers before any deduction and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter.
- (q) "Taxable year" is the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net profits are to be computed under this chapter, and, in the case of a return for a fractional part of a year, the period for which such return is made. Unless approved by the Administrator, the taxable year of an individual shall be a calendar year.
- (r) "Taxpayer" is a person, whether an individual, co-partnership, association, or any corporation or other entity, required hereunder to file a return or pay a tax.

- (s) The singular includes the plural, and the masculine includes the feminine and the neuter.
- (t) "Village" means the Village of North Perry, Lake County, Ohio.

(Ord. 225. Passed 12-6-79.)

### **171.03 IMPOSITION OF TAX.**

(a) An annual tax for the purposes specified in Section 171.01 hereof shall be imposed on and after January 1, 1983, at the rate of one percent (1%) per annum on the following:

(Ord. 266. Passed 12-2-82.)

- (1) On all salaries, wages, commissions and other compensation earned on and after January 1, 1983, by the residents of the Village.

(Ord. 266. Passed 12-2-82.)

- (2) On all salaries, wages, commissions and other compensation earned on and after January 1, 1983, by non-residents for work done or services performed or rendered in the Village; except that on and after January 1, 2001, compensation paid to an individual for personal services performed within the Village, where the individual does not reside in the Village, and only performs such personal services in the Village on twelve (12) or fewer days in a calendar year, and if the individual is an employee, the principal place of business of such individual's employer is located outside of the Village, then such compensation shall not be subject to the annual tax.

(Ord. 01-001. Passed 1-4-01.)

- (3) A. On the portion attributable to the Village of the net profits earned on and after January 1, 1983, of all resident unincorporated businesses, professions or other activities, derived from work done or services performed or rendered and business or other activities conducted in the Village.
- B. On the portion of the distributive share of the net profits earned on and after January 1, 1983, of a resident partner or owner of a resident unincorporated business entity not attributable to the Village and not levied against such unincorporated business entity.
- (4) A. On the portion attributable to the Village of the net profits earned on and after January 1, 1983, of all nonresident unincorporated businesses, professions or other activities, derived from work done or services performed or rendered and business or other activities, conducted in the Village, whether or not such unincorporated business entity has an office or place of business in the Village.
- B. On the portion of the distributive share of the net profits earned on and after January 1, 1983, of a resident partner or owner of a nonresident unincorporated business entity not attributable to the Village and not levied against such unincorporated business entity.
- (5) On the portion attributable to the Village of the net profits earned on and after January 1, 1983, of all corporations derived from work done or services performed or rendered and business or other activities conducted in the Village, whether or not such corporations have an office or place of business in the Village.

(Ord. 225. Passed 12-6-79; Ord. 266. Passed 12-2-82.)

- (6) On any income, including commissions or otherwise, earned as a result of the sale of real property located within the Village of North Perry, which tax shall be imposed on non-resident licensed real estate agents who are non-employees of a real estate brokerage or are independent contractors and non-resident real estate brokers. The tax shall be imposed on the agents and brokerage income resulting from the sale of property that is physically located within the Village of North Perry, regardless of where the office or offices of the agent and broker is or are located.

(Ord. 01-019. Passed 10-4-01.)

(b) The portion of the net profits attributable to the Village of a taxpayer conducting a business, profession or other activity both within and without the boundaries of the Village shall be determined as provided in Ohio R.C. 718.02 and in accordance with the Rules and Regulations adopted by the Commissioner of Taxation pursuant to this chapter.

(c) The tax provided herein shall not be levied upon:

- (1) Poor relief, unemployment insurance benefits, old age pensions or similar payments, including disability benefits, received from local, state or federal governments or charitable, religious or educational organizations.
- (2) Proceeds of insurance paid by reason of the death of the insured, pensions, disability benefits, annuities or gratuities.
- (3) Dues, contributions or similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.
- (4) Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations and associations.
- (5) Personal earnings of all persons under eighteen years of age.
- (6) Gains from involuntary conversion, cancellation of indebtedness, interest on federal obligations, items of income already taxed by the State of Ohio from which 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).
- (7) Gains from sale or exchange of capital assets, as capital assets are defined under the rules of the Federal Income Tax Code.
- (8) Military pay and allowances by members of the Armed Forces of the United States.
- (9) Income of religious, fraternal, charitable, scientific, literary, educational institutions or corporations organized not for profit.
- (10) Alimony received.
- (11) Compensation for personal injuries or for damages to property by way of insurance or otherwise.
- (12) Interest, dividends and other revenue from intangible property which is subject to Ohio Intangible Property Tax.

(Ord. 225. Passed 12-6-79; Ord. 266. Passed 12-2-82.)

### **171.04 EFFECTIVE PERIOD.**

(a) Such tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation and with respect to the net profits of businesses, professions or other activities earned on and after January 1, 1980.

(b) Such tax shall continue as long as it is deemed necessary by the Council of the Village of North Perry, Ohio.

(Ord. 84-298. Passed 3-14-85.)

### 171.05 RETURN AND PAYMENT OF TAX.

(a) (1) Each taxpayer or person who engages in business, or whose salaries, wages, commissions and other compensation are subject to the tax imposed by this chapter shall, whether or not a tax be due thereon, make and file a return on or before April 30, and on or before April 30, of each year thereafter with the Administrator on a form or forms furnished by or obtainable upon request from such Administrator setting forth:

- A. The aggregate amounts of salaries, wages, commissions and other compensation earned by him, and/or gross income from such business less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to the tax;
- B. The amount of the tax imposed by this chapter on such earnings and profits; and
- C. Such other pertinent statements, information returns, or other information as the Administrator may require, including a statement that the figures used in the return are the figures used in the return for federal income tax adjusted to set forth only such income as is taxable under the provisions of this chapter.

(Ord. 225. Passed 12-6-79.)

(2) On an after January 1, 2001, the Administrator shall accept for filing a generic form of an income tax return, report or document if the generic form, once completed and filed, contains all of the information required to be submitted with the Village's prescribed returns, reports or documents and if the taxpayer or return preparer filing the generic form otherwise complies with the rules or ordinances of the Village governing the filing of returns, reports or documents.

(Ord. 01-001. Passed 1-4-01.)

(b) 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 other period.

(Ord. 225. Passed 12-6-79.)

(c) The Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six months, or three months beyond any extension requested of or granted by the Internal Revenue Service for the filing of the federal income tax return. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended. Any taxpayer that has requested an extension for filing a Federal income tax return may request an extension for the filing of a Village income tax return by filing a copy of the taxpayer's request for a Federal filing extension with the Administrator not later than the last day for filing the Village income tax return as required by this section. The Administrator shall grant such a request for extension for a period not less than the period of the Federal extension request, and may deny the taxpayer's request for extension only if the taxpayer fails to timely file the request, or fails to file a copy of the request for the Federal extension, or owes the Village any delinquent income tax or any penalty, interest, assessment or other charge for the late payment or non-payment of income tax, or has failed to file any required income tax return, report or other related document for a prior tax period. The granting of an extension for filing a Village income tax return does not extend the last date for paying the tax without penalty unless the Administrator grants an extension of that date.

(Ord. 225. Passed 12-6-79; Ord. 01-001. Passed 1-4-01.)

(d) The return shall also show the amount of the tax imposed by this chapter on such earnings and profits. The taxpayer making such return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 171.06, or where any portion of the tax has been paid by the taxpayer pursuant to the provisions of Section 171.07, credit for the amount so paid shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing the return.

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 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.

(e) The Administrator is hereby authorized to provide by regulation, subject to the approval of the Board of Review, that the return of an employer or employers showing the amount of tax deducted by such employer or employers from the salaries, wages, commissions or other compensation of an employee, and paid by him or them to the Administrator shall be accepted as the return required of any employee whose sole income, subject to the tax or taxes under this chapter, is such salary, wages, commissions or other compensation.

Under such regulations as the Administrator may prescribe, subject to the approval of the Board of Review, any taxpayer, in lieu of filing a detailed return as hereinbefore provided, may file a sworn statement prescribed by the Administrator of salaries, wages, commissions and other compensation or of net profits as reported on his federal income tax return for the period involved. Such statement shall also set forth each adjustment made under the terms of any Village income tax ordinance and the taxpayer filing such sworn statement shall pay the tax hereby levied on the adjusted amount thus reported in the statement.

(f) In the case of a corporation that carries on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the Village constituting a portion only of its total business, the Administrator shall require such additional information as may be necessary to ascertain whether net profits allocable to the Village are being distorted by the shifting of income, apportionment of expenses, or other devices available to a common control. If the Administrator finds that a person's net profits allocable to the Village are distorted 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, he shall adjust such transactions so as to produce a fair and proper allocation of net profits to the Village. If necessary, the Administrator may require the filing of a consolidated return.

(g) A 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 hereof, shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.

(h) Within three months from the final determination of any federal tax liability affecting taxpayer's Village tax liability, such taxpayer shall make and file an amended Village return showing income subject to Village tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.

(Ord. 225. Passed 12-6-79.)

(i) Commencing with the 1994 tax year and continuing thereafter, any person, eighteen years of age or older, or any entity subject to the provisions of this chapter shall file any return due in accordance with the provisions of this section with the administrator or the designated collection agency of the Village of North Perry.

(Ord. 94-427. Passed 8-4-94.)

#### **171.06 COLLECTION AT SOURCE.**

(a) Each employer within or doing business within the Village who employs one or more persons on a salary, wage, commission or other compensation basis, shall deduct at the time of the payment of such salary, wage, commission or other compensation, the tax of one percent (1%) of the gross salaries, wages, commissions or other compensation due by the employer to the employee and shall, on or before the twentieth day of the month following the close of each calendar quarter make a return and pay to the Administrator the amount of taxes so deducted, subject to the provisions of subsections (c), (d) and (e) hereof. The return shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefor by the Administrator. Notwithstanding anything hereinabove to the contrary, on and after January 1, 2001, no non-resident employer, agent of such an employer, or other payer that is not situated in the Village shall be required to deduct and withhold taxes from the taxable income of an individual unless the total amount of tax required to be deducted and withheld for the Village on account of all of the employer's employees or all of the other payer's payees exceeds one hundred fifty dollars (\$150.00) for a calendar year on and after January 1, 2001.

(Ord. 261. Passed 6-3-82; Ord. 266. Passed 12-2-82; Ord. 01-001. Passed 1-4-01.)

(b) Every employer required to deduct and withhold the tax at the source is liable directly to the Village for the payment of such tax, whether actually collected by such employer or not. Such employer in collecting the tax shall be deemed to hold the same, until payment is made by such employer to the Village, as a trustee for the benefit of the Village and any such tax collected by such employer from his employees shall, until the same is paid to the Village, be deemed a trust fund in the hands of such employer.

(c) Such employer who deducts the tax in the amount of one hundred dollars (\$100.00) or more in the first or second month of a calendar quarter shall, or before the twentieth day of the following month, pay to the Administrator the amount of taxes so deducted. Such employer who deducts the tax in the amount of one hundred dollars (\$100.00) or more in the third month of a calendar quarter may, at his option, on or before the twentieth day of the following month, pay to the Administrator the amount of taxes so deducted.

(d) Such employer who makes such payments on a monthly basis only for the first two months of a calendar quarter shall pay such tax deducted for the third month of a calendar quarter at the regular time for filing the employer's quarterly return of income tax withheld. Such employer who, at his option, makes such payment for the third month of a calendar quarter on or before the twentieth day of the following month, shall have until the twentieth day of the second month following the close of each calendar quarter to file such employer's quarterly return of income tax withheld.

(e) The payments shall be on a form or forms furnished by or obtainable upon request from the Administrator, setting forth the amount of tax deducted for the month. A receipted copy of such form shall be returned to the employer to be attached to and filed with the employer's quarterly return of income tax withheld.

(f) Provided, however, that no person shall be required to withhold the taxes on the wages or other compensation paid to the taxpayer if such person is not required to so withhold taxes on wages or other compensation by the Internal Revenue Service of the United States.

(Ord. 225. Passed 12-6-79.)

#### **171.07 DECLARATIONS.**

Every person who anticipates any taxable income which is not subject to Section 171.06 hereof, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 171.03 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; provided, however, if a person's income is wholly from wages from which the tax will be withheld and remitted to the Village in accordance with Section 171.06 hereof, or if the person is not required to file a declaration of income by the Internal Revenue Service or State of Ohio, then in either event such person need not file a declaration.

(Ord. 225. Passed 12-6-79.)

##### **(a) Filing of Declaration.**

- (1) The declaration required by this section shall be filed on or before April 30, of each year during the effective period set forth in Section 171.04 or within four months of the date the taxpayer becomes subject to tax for the first time.
- (2) Those taxpayers reporting on a fiscal year basis, shall file a declaration within four months after the beginning of each fiscal year or period.
- (3) Every person engaged in any transient business, profession, enterprise or activity subject to the tax imposed by Section 171.03, may be required to immediately file an estimate and pay the estimated tax due thereon prior to the issuance of any permits or licenses or the execution of any rental agreement for the use of Municipally owned property of the Village for the event giving rise to income tax liability.

(Ord. 85-301. Passed 4-4-85.)

- (b) **Form of Declaration.** The declaration required by Section 171.07 shall be filed upon a form furnished by, or obtainable from, the Administrator, provided, credit shall be taken for Village tax to be withheld from any portion of such income. 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.

(Ord. 225. Passed 12-6-79.)

- (c) **Payment to Accompany Declaration.** Such declaration of estimated tax to be paid to the Village 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, on and after January 1, 2003 and before such date, such declaration of estimated tax to be paid to the Village shall be accompanied by a payment of at least one-fourth 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 the thirteenth months after the beginning of the taxable year. For

taxpayers that are not individuals, not more than twenty-two and one-half percent (22.5%) of the taxpayer's estimated tax liability for the current year shall be required to have been remitted on or before the day on which the annual tax return for the prior year is required to be filed disregarding any extension, or in the case of a fiscal year taxpayer, the fifteenth day of the fourth month of the taxpayer's taxable year, and at least a similar amount shall be paid on or before the 15th day of June, or in the case of a fiscal year taxpayer, the 15th day of the sixth month of the taxpayer's taxable year, a similar amount shall be paid on or before the 15th day of September, or in the case of a fiscal year taxpayer, the 15th day of the ninth month of the taxpayer's taxable year, and not more than ninety percent (90%) of the taxpayer's estimated tax liability for the current year shall be required to have been remitted on or before the 15th day of December or, in the case of a fiscal year taxpayer, the 15th day of the twelfth month of the taxpayer's taxable year. Provided, however that in case 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.

(Ord. 01-001. Passed 1-4-01.)

(d) Annual Return. On or before the last day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the Village shall be paid therewith in accordance with the provisions of Section 171.07 hereof.

(e) Extensions. The Administrator may extend the time of filing any return required, of making any payment or performing any other act required by this Section 171.07 for a period not to exceed six months beyond the original required date.

(Ord. 225. Passed 12-6-79.)

#### **171.08 INVESTIGATIVE POWERS OF THE ADMINISTRATOR.**

(a) 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 subject to the tax 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 duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

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

(c) The refusal to produce books, papers, records and federal income tax returns, or the refusal of 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 Administrator authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 171.09 hereof.

(d) Any information gained 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.

(1) Any person divulging such information in violation of this chapter shall, upon conviction therefor, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00) or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense.

(2) As used in this paragraph "official purposes" means a disclosure to an employee of the office of department of taxation, a member or employee of the Board of Review, and disclosure to any other person shall be prima facie unlawful and a violation of this section.

(Ord. 225. Passed 12-6-79.)

#### **171.09 INTEREST AND PENALTIES.**

(a) Interest on Unpaid Tax. All 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-half of one percent (1/2%) per month or fraction thereof.

(b) Penalties on Unpaid Tax. In addition to interest as provided in subsection (a) hereof, penalties based on the unpaid tax are hereby imposed as follows:

(1) The failure to pay taxes due, other than taxes withheld; ten percent (10%) per annum or fraction thereof.

(2) For failure to remit taxes withheld from employees; ten percent (10%) per month or fraction thereof.

(c) Exceptions.

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

(2) The Village shall not impose any penalty, interest penalty, or other similar assessment or charge against the taxpayer for the late payment or non-payment of estimated tax liability when either of the following circumstances occurs:

A. The taxpayer is an individual who resides in the Village but was not domiciled in the Village on the first day of January of the current calendar year; or

B. The taxpayer has remitted, pursuant to Section 171.07(c) hereof, an amount at least equal to one hundred percent (100%) of the taxpayer's tax liability for the preceding year as shown on the return filed by the taxpayer for the preceding year, provided that the return for the preceding year reflected a twelve (12) month period and the taxpayer filed the return for the preceding year.

(Ord. 01-001. Passed 1-4-01.)

(d) Abatement of Interest and Penalty. Upon recommendation of the Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Administrator to recommend abatement of penalty and interest, the Board may

nevertheless abate penalty or interest, or both, for good cause shown.

(e) Violations. Any person who shall:

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

shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months or both, for each offense.

(Ord. 225. Passed 12-6-79.)

(f) Limitation on Prosecution. All prosecutions under this section must be commenced within three years from the time of the offense complained of except in the case of failure to file a return or in the case of filing a false or fraudulent return, in which event the limitation of time within which prosecution must be commenced shall be six years from the date the return was due or the date the false or fraudulent return was filed.

(Ord. 85-301. Passed 4-4-85.)

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

(Ord. 225. Passed 12-6-79.)

#### **171.10 BOARD OF REVIEW.**

(a) Board of Review Established. A Board of Review consisting of the Mayor, the President of Council and one resident of the Village to be appointed by the Mayor, subject to confirmation by a majority of members of Council, is hereby created. The term of office shall be for a period of one year or through December 31, 1979, whichever occurs last and thereafter for a one year term. The Board shall select, each year, for a one year term, one of its members to serve as Chairman and one to serve as 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 transactions. Any hearing by the Board may be conducted privately and provisions of Section 171.08(d) hereof with reference to the confidential information to be required to be disclosed by this chapter shall apply to such matters as may be heard 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 becomes effective. The Board shall hear and pass on appeals from any rules or decisions of the Administrator, and at the request of the taxpayer or Administrator, is empowered to substitute alternate 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 rules 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.

(Ord. 225. Passed 12-6-79.)

(d) Whenever the Administrator issues a decision regarding a Village income tax obligation that is subject to appeal, as provided in this Section 171.10, or in a regulation of the Village, the Administrator shall notify the taxpayer at the same time of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision. The Board of Review shall schedule a hearing within forty-five (45) days after receiving an appeal from any person dissatisfied with any ruling or decision of the Administrator, 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. 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 decision by ordinary mail to the appellant within fifteen (15) days after issuing the decision.

(Ord. 01-001. Passed 1-4-01.)

#### **171.11 CREDIT FOR TAXES PAID TO ANOTHER MUNICIPALITY.**

(a) Where a resident of this Municipality is subject to a municipal income tax in another municipality he shall not pay a total municipal income tax on the same income greater than the tax imposed at the higher of the two rates.

(Ord. 225. Passed 12-6-79.)

(b) Every individual taxpayer who resides in this Municipality who receives net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside this Municipality, if it be made to appear 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 in his behalf to such other municipality. The credit shall not exceed the tax assessed by this chapter on such income earned in such other municipality or municipalities where such tax is paid.

(Ord. 95-444. Passed 5-5-95; Ord. 02-06. Passed 3-7-02.)

(c) Any claim for credit for income taxes paid another municipality on the same income taxable hereunder or claim for or assignment

of any refund due to the credit provided for herein, must file within three years from the due date of the return. Failure to file such claim for refund or credit within the time prescribed herein shall render such credit, claim for refund or assignment null and void.

(Ord. 85-301. Passed 4-4-85.)

**171.12 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.**

(a) Insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied hereunder or enforcing any provisions of the income tax ordinance are concerned, it shall continue effective until all of such taxes levied hereunder are fully paid and any and all suits and prosecutions for the collection of the taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Section 171.09.

(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 171.05 and 171.06 as though the same were continuing.

(Ord. 225. Passed 12-6-79.)

**171.13 CONTRACT FOR CENTRAL COLLECTION.**

The Mayor is hereby authorized and directed to enter into an agreement with the City of Cleveland for Central Collection of the Municipal Income Tax for the Village.

(Ord. 225. Passed 12-6-79.)

**171.14 REPORTS OF NEW TENANT IN RENTAL PREMISES.**

(a) The owner, manager or other person in control of rental real property, who rents or leases real property to any person, firm or other entity for any purpose in the Village shall file a written report within thirty (30) days after any new tenant occupies any portion of the rental real property of any kind within the Village to the Administrator as defined in Section 171.02(a) of the Codified Ordinances of the identify of their existing tenants, and any new tenants, lessees or other occupants of the real estate, and the address and telephone number, if available, of such tenants or other occupants. The property owner, manager or other person in control of a vacated rental real property shall file, within thirty (30) days after any tenant vacates such premises, a report showing the date of vacation from the rental property and a forwarding address, if known.

(b) Within a reasonable period of time, not to exceed sixty (60) days, after the effective date of this section the Administrator shall prepare a form for reporting information required by subsection (a) hereof, and, upon request, shall provide such form, without charge, to any owner, manager or other person required to file reports, as set forth in subsection (a) hereof. In addition, the Administrator shall endeavor to determine the owner, manager or other person in control of all rental real estate located within the Village and provide them with a certified copy of this section and the form to be utilized as contemplated by this section. Within thirty (30) days after the receipt of such form from the Administrator, each person who would otherwise be required to file a report as to any new tenants, shall also provide a report to the Administrator, on the form provided by the Administrator, of all existing tenants, lessees or other occupants of such rental real property and the address and phone number, if available, of such parties.

(c) Any owner, manager or person in control of the rental real property who fails to provide the report of lessees, tenants or other occupants of premises under their control as required in subsection (a) or (b) hereof shall be fined in an amount not to exceed one hundred dollars (\$100.00) for each separate violation of this section.

(Ord. 01-017. Passed 8-2-01.)