

VILLAGE OF MECHANICSBURG INCOME TAX ORDINANCE

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153.01 DEFINITIONS

As used in this ordinance, the following words shall have the meanings ascribed to them in this section, except as and if the context clearly indicates or requires a different meaning. The singular shall include the plural. The masculine gender shall include the feminine and neuter genders.

“Adjusted federal taxable income” - A “C” corporation’s federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute “Adjusted Federal Taxable Income” as if the pass-through entity was a “C” corporation. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code (ORC) section 5745.03 or to the net profit from a sole proprietorship. This definition is effective for tax years beginning on or after January 1, 2004.

“Administrator” – The chief deputy in the income tax department of the Village of Mechanicsburg, Ohio.

“Association” – A partnership, limited partnership, limited liability company, or any other form of unincorporated enterprise.

“Board of Review” - The Board created by and constituted as provided in Section 153.19 of the ordinance.

“Business” – An enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, fiduciary, trust, association, corporation or any other entity.

“Corporation” - A corporation, including S Corporations as defined in the federal tax code, 26 U.S.C. 1361, or joint stock association organized under the laws of the United States, State of Ohio, or any other state, territory or foreign country of dependency.

“Domicile” -The permanent legal residence of a taxpayer. A taxpayer may have more than one residence but not more than one domicile.

“Employee” – One who works for income, qualifying wages, salary, commissions or other type of compensation in the service of and under the control of an employer.

“Employer” – An individual, partnership, association, corporation, governmental body, unit or agency or any other entity whether or not organized for profit, who or that employs one or more persons on an income, salary, wage, commission or other compensation basis.

“Fiscal year” – An accounting period of 12 months or less ending on any day other than December 31.

“Generic form” - An electronic or paper form designed for reporting estimated municipal income taxes, and/or annual municipal income tax liability, and/or separate requests for refunds that contain all the information required on the Village of Mechanicsburg’s regular tax return and estimated payment forms, and are in a similar format that will allow processing of the generic forms altering the Village’s procedures for processing forms.

“Gross receipts” – The total revenue derived from sales, work done, or service rendered.

“Income” - All monies, subject to limitations imposed by ORC 718, derived from any source whatsoever, including but not limited to:

 A. All income, qualifying wages, commissions, other compensation and other income from whatever source received by residents of the Village of Mechanicsburg.

 B. All salaries, wages, commissions, other compensation and other income from whatsoever source received by nonresidents for work done or services performed or rendered or activities conducted in the Village of Mechanicsburg.

 C. The portion attributable to the Village of the net profits of all unincorporated businesses, associations, professions, corporations, or other entities, from sales made, work done, services performed or rendered, and business or other activities conducted in the Village of Mechanicsburg.

“Net profits” – For taxable years prior to 2004, the net gain from the operation of a business, profession, (or) enterprise or other activity (whether or not such business, profession, enterprise or other activity is conducted for profit or is ordinarily conducted for profit) after provision for all ordinary and necessary expense either paid or accrued in accordance with the accounting system (i.e., either cash or accrual) used by the taxpayer for federal income tax purposes without deduction of taxes imposed by this ordinance, 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; and otherwise adjusted to the requirements of this ordinance. (For taxable years 2004 and later, see “adjusted federal taxable income”.)

“Non-resident individual” – An individual who is not domiciled in the Village of Mechanicsburg.

“Non-resident unincorporated business entity” – An unincorporated business entity not having an office or place of business within the Village of Mechanicsburg.

“Person” – 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 shall mean the partners or members thereof and as applied to corporations, the officers thereof.

“Place of business” – Any bona-fide office (other than a mere statutory office), factory, warehouse, or other place which is occupied and used by the taxpayer in carrying on any business activity individually or through any one or more of his regular employees regularly in attendance.

“Qualifying wage” - Wages as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, but including subsequent adjustments from required additions and deductions. “Qualifying wage” represents employees’ income from which municipal tax shall be deducted by the employer, and any wages not considered a part of “qualifying wage” shall not be taxed by the Village of Mechanicsburg. This definition is effective January 1, 2004, for taxable years 2004 and later.

“Resident individual” – Any individual who is domiciled in the Village of Mechanicsburg.

“Resident unincorporated business entity” – An unincorporated business entity having an office or place of business within the Village of Mechanicsburg.

“Taxable income” – Income minus the deductions and credits allowed by this ordinance. (See “Income” definition.)

“Taxable year” – The calendar year or the fiscal year upon the basis of which the net profits are to be computed under this ordinance and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.

“Taxpayer” – A person whether an individual, partnership, limited partnership, corporation, association, or other entity, required hereunder to file a return or to pay a tax.

“Village” means the Village of Mechanicsburg, Ohio.

153. 02 IMPOSITION OF TAX

A municipal income tax shall be levied, collected and paid with respect to income, qualifying wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned or received on and after January 1, 2004. This Ordinance replaces all known and unknown ordinances and amendments and supplements thereto, for taxable years 2004 and later. To provide for the purposes of general Village of Mechanicsburg operations, maintenance, new equipment and capital improvements of the Village of Mechanicsburg, the income tax is hereby levied a tax at the rate of one (1) percent per annum upon the following:

(A) On all income, qualifying wages, commissions and other compensation earned and/or received on and after July 1, 1971, by residents of the Village. For further clarification “income” includes, but is not limited to, lottery, gambling and sports winnings, and games of chance. In no circumstance shall deductions be allowed against lottery, gambling and sports winnings, and games of chance. However, deductions shall be allowed against gambling and sports winnings if the taxpayer is considered a professional gambler for federal income tax purposes.

(B) On all income, qualifying wages, commissions, and other compensations earned and/or received on and after July 1, 1971, by non-residents of the Village for work done or services performed or rendered in the Village. Separation pay, termination pay, reduction-in-force pay, and other compensation paid as a result of an employee leaving the service of an employer shall be allocable only to the Village of Mechanicsburg. However, the Village of Mechanicsburg shall not tax the compensation of an individual if all of the following apply:

(1) The individual does not reside in the Village of Mechanicsburg.

(2) The compensation is paid for personal services performed by the individual in the Village of Mechanicsburg on twelve or fewer days during the calendar year, in which case the individual shall be considered an “occasional entrant” for purposes of the Village income tax. A day is a full day or any fractional part of a day.

(3) In the case of an individual who is an employee, the principal place of business of the individual’s employer is located outside the Village of Mechanicsburg and the individual pays tax on compensation described in Section 153.02 to the municipality, if any, in which the employer’s principal place of business is located, and no portion of that tax is refunded to the individual.

(4) The individual is not a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such a promoter, all as may be reasonably defined by the Village of Mechanicsburg.

(C) (1) On the portion attributable to the Village of the net profits earned on and after July 1, 1971, of all resident unincorporated businesses, professions, or other activities derived from sales made, work done, service performed or rendered and business or other activities conducted in the Village.

(2) On the portion attributable to the Village of the net profits earned on and after July 1, 1971 of all non-resident unincorporated businesses, professions, or other activities derived from sales made, work done, service 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.

(3) A non-resident association shall not be taxable as an entity if no net profits are attributable to the Village, but any member thereof who is a resident of the Village shall be taxed individually on his share, whether distributed or not, of the annual net profits of the association.

(D) On the portion attributable to the Village of the net profits on and after July 1, 1971, of all corporations, estates, trusts and limited partnerships, derived from work done or services performed or rendered and business or other activities conducted in the Village whether or not such corporations, estates, trusts, and limited partnerships, have their principal or any place of business located in the Village.

153.03 ALLOCATION OF NET PROFITS

(A) Net profits from a business or profession conducted both within and without the boundaries of the Village shall be considered as having a taxable situs in the Village for purposes of the tax in the same proportion as the average ratio of:

(1) 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 of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated. Real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by 8.

(2) Wages, salaries and other compensation paid during the taxable period to persons employed in the business or professions 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 made or performed. Wages, salaries, and other compensation shall be included to the extent that they represent qualifying wages.

(3) Gross receipts of the business or profession from sales made and services performed during the taxable period in the Village to gross receipts from sales and services, wherever made or performed.

In the event that the allocation formula in Section 153.03(A) does not produce an equitable result another basis (including books and records) may, under uniform regulations, be substituted so as to produce such result.

(B) In determining said ratio in Section 153.03(A), each factor shall be weighted as 1/3 (33-1/3%) of the total ratio. In the event any of the said factors is for any reason inapplicable, the factor shall be reported as "0". Notwithstanding the foregoing, with regard to a taxpayer as defined in 153.01, if independent certified public accountants for the taxpayer shall certify, with regard to the tax year, that on the basis of generally accepted accounting principles, consistently applied, no net profit for the tax year from operations within the Village was realized, in such event no tax for the year shall be due and payable from the taxpayer.

(C) As used in this ordinance, sales made in the Village mean:

(1) All sales of tangible personal property which is 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 which is 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 the sales result from such solicitation or promotion.

(3) All sales of tangible personal property which is shipped from a place within the Village to purchasers outside 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 area where delivery is made.

(D) Consolidated returns.

(1) Any affiliated group which files a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code may file a consolidated return with the Village. However, once the affiliated group has elected to file a consolidated return or a separate return with the Village, the affiliated group may not change their method of filing in any subsequent tax year without written approval from the Village.

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

153. 04 EXEMPTIONS

The tax provided for herein shall not be levied on the following:

(A) The Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the National Guard.

(B) 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 and only to the extent that the said income is exempt from federal income tax.

(C) Social security benefits, unemployment compensation (excluding supplemental unemployment compensation), payments from pension plans or similar payments, including disability payments received from private industry, or local, state, or federal governments, or from charitable, religious or educational organizations, and the proceeds of sick, accident, or liability insurance policies. The disability benefits excludable must be a permanent nature as determined by a physician or government entity.

(D) Receipts by bona fide charitable, religious and educational organizations and associations, when those receipts are from seasonal or casual entertainment,

amusement, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations and associations and only to the extent that the said income is exempt from Federal Income Tax.

(E) Compensation for personal injuries or for damages to property by way of insurance or otherwise, but this exclusion does not apply to compensation paid for lost salaries or wages or to compensation from punitive damages.

(F) Gains from involuntary conversions, cancellation of indebtedness, 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).

(G) Income of all individuals under 18 years of age, whether residents or nonresidents.

(H) Compensation paid to a precinct election official, to the extent that such compensation does not exceed \$1,000 annually.

(I) Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as a part of an ordained clergy's compensation. The clergy must be duly ordained, commissioned, or licensed by a religious body constituting a religious denomination, and must have authority to perform all sacraments of the religious body.

(J) Income, 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, and/or is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of a municipality to impose net income taxes.

153.05 RETURN AND PAYMENT OF TAX

(A) Each taxpayer who engages in business, or whose income, salaries, qualifying wages, commissions and other compensations are subject to the tax imposed by this ordinance shall, whether or not a tax be due thereon make and file a return on or before April 15th of each year, or if the return is made for a fiscal year or other period different from the calendar year, the return shall be made on or before the 15th day of the fourth month after the close of said fiscal year or other period. The return shall be filed with the Administrator of the income tax department on a form furnished by or obtainable from the Administrator, or on an acceptable generic form as defined in this ordinance, setting forth:

(1) The aggregate amount of income, salaries, qualifying wages, commissions or other compensations earned and/or net profits earned and/or gross income from such business less allowable expenses in the acquisition of such gross income earned during the preceding year and subject to the tax together with such other pertinent information as the Administrator may require.

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

(3) Such other pertinent statements, information returns, or other information as the Administrator may require, including but not limited to copies of all W-2 forms, 1099 Miscellaneous Income Forms, page one of form 1040, Page One and Two of Form 1120, 1120S (including (K-1), 2106, 1065, Schedule C (including cost of

goods manufactured and/or sold), Schedule E, schedule F and any other Federal Schedules if applicable.

(4) Expenses reported in accordance with federal guidelines for federal form 2106 (Including the requirement that they equal at least 2% of taxable income) are deductible, but are subject to review and audit by the Village's Income Tax Office. The 2106 expenses must be apportioned to municipalities in the same manner to which the related income is apportioned.

(B) Each taxpayer may offset business losses against business net profits from any business conducted in this Village or in any municipality that does not levy an income tax on net profits therefrom. However, a loss from the operation of a business may not be used to offset the income on a taxpayer's W-2 Form.

(C) If a net operating loss has been sustained in any taxable year such losses may not be carried forward or backward to any other taxable year.

(D) The taxpayer making a 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 153.07 of this ordinance or where any portion of said tax has been paid by the taxpayer pursuant to the provisions of 153.08 of this ordinance, the amounts paid under 153.07 and 153.08 shall be deducted from the amount shown to be due and only the balance, if any, shall be due.

(E) A taxpayer who has overpaid his income tax in any taxable year may request a refund provided, however, there is no other tax liability due the Village, and provided, further, that no amount of less than \$1.00 will be refunded or collected.

(F) The Administrator shall have the authority to extend the time for filing of the annual return upon the request of the taxpayer for a period not to exceed six (6) months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal Income Tax Return for taxable years prior to 2004. For taxable year 2004 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. For taxable years subsequent to 2004 the extended due date shall be the last day of the month to which the due date of the federal income tax return has been extended, if the extension is filed through the Ohio Business Gateway. If not filed through the Ohio Business gateway the extended due date remains the last day of the month following the month to which the due date of the federal income tax return has been extended. The Administrator may deny the extension if the taxpayer fails to file the request timely, fails to file a copy of the federal extension request, or if the taxpayer's income tax account with the Village of Piketon is delinquent in any way. The Administrator may require a tentative return, accompanied by payment of the tax shown to be due thereon by the date the return is normally due. 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.

(G) The officer or employee of such employer having control or supervision or charged with the responsibility of filing the return and making the payment shall be personally liable for failure to file the return or pay the tax, penalties, or interest due as required herein. The dissolution, bankruptcy or reorganization of any such employer does not discharge an officer's or employee's liability for a prior failure of such business to file the return or pay taxes, penalties, or interest due.

(H) Any business, profession, association or corporation reporting a net loss is subject to the filing requirements of this ordinance.

(I) The failure of any employer, taxpayer or person to receive or procure a return, declaration, or other required form shall not excuse him from filing any information return, tax return, declaration, or other required form, or from paying the tax.

(j) Retirees having no income considered taxable for Village of Mechanicsburg income tax purposes may file, with the Administrator, a written request for exemption from these filing requirements, and shall be exempt if the request is granted by the Administrator. Such exemption shall be in effect until such time as the retiree receives income taxable for Village of Mechanicsburg income tax purposes, at which time the retiree shall be required to comply with all applicable provisions of this ordinance.

153. 06 AMENDED RETURNS

(A) Where an amended return must be filed in order to report additional tax due or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in 153.05 of the ordinance, such amended return shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting (i.e., cash or accrual) or apportionment of new profits after the due date for filing the original return.

(B) 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 based upon such final determination of federal tax liability, and pay an additional tax shown due thereon or make a claim for refund of any overpayment.

(C) No refund shall be allowed unless a written request is presented to the Administrator within three years from the date which such payment was made or the return was due, whichever is later.

153. 07 COLLECTION AT SOURCE

(A) Each employer within or doing business within the Village, shall deduct at the time of payment of such income, salaries, qualifying wages, commissions or other compensations, the tax of one percent of the gross income, salaries, qualifying wages, commissions or other compensations due by the said employer to said employee and shall make a return and pay to the Administrator the amount of taxes so deducted. Such employer, in collecting said tax, shall be deemed to hold the same as trustee for the benefit of the Village until payment is made by such employer to the Village, and any such tax collected by an employer from the employer's employees, shall, until same is paid to the Village, be deemed a trust fund in the hands of such employer. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact, been withheld.

(1) Said returns shall be on a form or forms prescribed by the Administrator, or on any acceptable generic form acceptable to the Administrator.

(2) If the taxes withheld by an employer for the Village during the previous tax year averaged one hundred dollars (\$100) per month or more, the employer shall remit payment of the withheld taxes to the Village on or before the last day of the month following the month for which the taxes were withheld.

(3) If the taxes withheld by an employer for the Village during the previous tax year averaged less than one hundred dollars (\$100) per month, payments may remitted quarterly on or before the last day of the month following the end of the quarter for which the taxes were withheld, subject to the approval of the Administrator.

(B) The officer and/or employee of such employer having control or supervision or charged with the responsibility of withholding the tax, filing the return, and/or making the payment shall be personally liable for failure to withhold the tax, file the return, and/or pay the tax, penalties, or interest due as required herein. The dissolution, bankruptcy or reorganization of any such employer does not discharge an officer's or employee's liability for a prior failure of such business to withhold the tax, file the return and/or pay taxes, penalties, or interest due.

(C) The employer shall make and file a return on a form furnished by the Administrator, showing the amount of tax deducted by said employer from the income, salaries, qualifying wages, commissions or other compensations of any employee and paid by employer to the Administrator

(D) Each employer, on or before February 28, following any calendar year in which such deductions have been made, or should have been made, by any employer, shall file with the Administrator an information return (W-2 form) for each employee from who income tax has been or should have been withheld showing the name and address and social security number of the employee, the total amount of income, salaries, qualifying wages, commissions or other compensations paid said employee during the year, and the amount of Village income tax withheld from each employee.

(E) On or before February 28 of each year all individuals, businesses, employers, brokers or other who engage persons, either on a fee or commission basis or as independent contractors and not employees (those who are not subject to withholding) must provide the Village with copies of all 1099 Miscellaneous Income Forms and/or a list of names, addresses, Social Security numbers or federal identification numbers and a total amount of earnings, payments, bonuses, commissions and/or fees paid to each person.

(F) All employers that provide any contractual service within the Village, and who employ subcontractors in conjunction with that service, shall provide the Village the names and addresses of the subcontractors. The subcontractors shall be responsible for all income tax employer requirements under this ordinance.

(G) A taxpayer shall be required to withhold the tax on salaries, wages, commissions, other compensation and other income paid domestic workers employed by such taxpayer exclusively in or about such taxpayer's residence, and the taxpayer shall comply with all filing and payment requirements of this ordinance for the tax withheld.

153. 08 DECLARATIONS

(A) Every person who anticipates any taxable income which is not subject to 153.07 of this ordinance, or who engages in any business, profession, enterprise or activity subject to the tax and imposed by 153.051 (C)(1) and (2) of this ordinance 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 income, salaries, qualifying wages, commissions or other compensations from which the tax will be fully withheld and remitted to the Village in accordance with 153.07 of this ordinance, or if a person's

annual income tax liability from which the tax will be fully withheld is less than one hundred dollars (\$100.00), such person need not file a declaration such person need not file a declaration.

(B) Such declarations shall be filed on or before April 15 of each year during the life of this ordinance, or on or before the 15th day of the fourth month the taxpayer becomes subject to tax for the first time.

(C) Those taxpayers reporting on a fiscal year basis shall file a declaration on or before the 15th day of the fourth month after the beginning of each fiscal year or period.

(D) Such declaration shall be filed upon a form furnished by or obtainable from the Administrator, or on a generic form as defined in this ordinance. However, credit shall be taken for the Village tax to be withheld from any portion of such income.

(E) 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) **Payments.**

(1) Such declarations of estimated tax to be paid the Village by taxpayers who are individuals shall be accompanied by a payment of at least one-fourth the estimated tax required to be paid by this section, 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; 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.

(2) Estimated tax to be paid the Village by taxpayers who are corporations and associations shall be accompanied by a payment of at least one-fourth the estimated tax required to be paid by this section, and at least a similar amount shall be paid on or before the fifteenth day of the sixth, ninth, and twelfth month of the 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.

(G) No penalties or interest shall be assessed, for not filing a declaration, on any resident taxpayer who was not domiciled in the Village on the first day of January in the year in which they became subject to estimated payments, nor shall penalties or interest be assessed on estimated payments if the taxpayer has remitted an amount equal to one hundred percent of the previous year's tax liability, provided that the previous year reflected a twelve-month period and the taxpayer filed a return for that year, nor shall penalties or interest be assessed on estimated payments if the taxpayer has remitted an amount equal to ninety percent of the final tax liability for the tax year due on or before April 15th of the current year.

153.09 ADMINISTRATION: DUTIES OF THE ADMINISTRATOR

(A) It shall be the duty of the Administrator to collect and receive the tax imposed by this Ordinance in the manner prescribed by said Ordinance and it shall also be his/her duty to keep an accurate record showing the payment received by him/her from each taxpayer and the date of said payment.

(B) The Administrator is hereby charged with the administration and enforcement of the provisions of this Ordinance and he/she is hereby empowered to adopt and promulgate and to enforce rules and regulations relating to any matter or

thing pertaining to the administration and enforcement of this Ordinance, including provisions for the re-examination and correction of returns and payments.

(C) In any case where a taxpayer has failed to file a return or failed to pay the tax due on 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 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. Such determination may be modified or amended based upon information or data subsequently secured by or made available to the Administrator. If the taxpayer fails to respond to the assessment within 30 days the assessment shall become final and the tax, penalties, and interest assessed shall become due and payable and collectible as are other unpaid taxes.

(D) The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, the taxpayer is unable to pay the full amount of tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by the taxpayer under this ordinance. 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 153.15 and 153.99 shall apply.

153.10 INVESTIGATIVE POWERS OF THE ADMINISTRATOR

(A) The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and federal and State income tax returns of any employer or of any taxpayer or person subject to, or who the Administrator believes is subject to the provisions of this ordinance for the purpose of verifying the accuracy of any return made, or if not return is made, to ascertain the tax due under this ordinance. Within ten (10) calendar days following a written request by the Administrator or the Administrator's duly authorized agent or employee, 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 examination and investigation as are hereby authorized.

(B) The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or would 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 and State income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons having knowledge of such income or information pertinent to such inquiry.

153.11 TAX INFORMATION CONFIDENTIAL

Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this ordinance shall be confidential, except for official purposes, or except in accordance with proper judicial order. The Administrator

may furnish the Bureau of Internal Revenue, Treasury Department of the United States with copies of the returns filed. Any person divulging such information shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine of not more than \$500 or imprisoned for not more than six months or both. Each disclosure shall constitute a separate offence. In addition to the above penalty, any employee of the Village who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

153.12 COLLECTION OF UNPAID TAXES; REFUNDS FOR OVERPAYMENT

(A) All taxes imposed by this ordinance shall be collectible, together with any interest and penalties thereon, by suit, as other debt of like amount are recoverable. All additional assessments shall be made and all legal actions to recover municipal income taxes and penalties and interest thereon shall be brought within three years after the tax was due or the return was filed, whichever is later. However, In the case of fraud, omission of 25% or more of income subject to this tax, or failure to file a return, all additional assessments shall be made and all prosecutions to recover Municipal income taxes and penalties and interest thereon shall be brought within six (6) years after the tax was due or the return was filed, whichever is later.

(B) Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date on which such payment was made or the return was due, or within three months after final determination of the Federal tax liability, whichever is later. However, the following shall apply regarding refunds of tax withheld from non-qualified deferred compensation plans (NDCP):

(1) A taxpayer may be eligible for a refund if the taxpayer has suffered a loss from a NDCP. The loss will be considered sustained only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to the NDCP. Full loss is sustained if no distribution of money and property will be made by the NDCP.

(2) A taxpayer who receives income as a result of payments from a NDCP, and that income is less than the amount of income deferred to the NDCP and upon which municipal tax was withheld, then a refund will be issued on the amount representing the difference between the deferred income that was taxed and the income received from the NDCP. If different tax rates applied to the tax years in which deferrals, a weighted average of the different tax rates will be used to compute the refund amount.

(3) Refunds shall be allowed only if the loss is attributable to the bankruptcy of the employer who had established the NDCP, or the employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified compensation.

(C) Income tax that has been deposited with the Village, but should have been deposited with another municipality, is allowable by the Village as a refund but is subject to the three-year limitation on refunds. Income tax that should have been deposited with the Village, but was deposited with another municipality, shall be subject to recovery by the Village. The Village will allow a non-refundable credit for any amount owed the Village that is in excess of the amount to be refunded by the other municipality, as long as the tax rate of the other municipality is the same or higher than

the Village tax rate. If the Village tax rate is higher, the tax representing the net difference of the rates is also subject to collection by the Village.

(E) The Administrator is authorized to waive penalties and interest and has the authority to accept waivers of state statutes of limitation.

(F) Payments on delinquent amounts shall be applied in the following manner:

(1) To unpaid penalty and interest assessments in the order in which such assessments became due.

(2) To the taxes owed for any previous year in the order in which such taxes became due.

(3) To the taxpayer's current estimated tax liability.

153.13 CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES

There shall be no credit allowed for municipal income tax that is paid to other municipalities.

153.14 CONTRACT PROVISIONS

No contract on behalf of the Village for work or improvement of the Village shall be binding or valid unless such contract contains the following provision:

"Said.....hereby further agrees to withhold all Village income taxes due or payable under the provisions of this ordinance for salaries, wages, commissions or other compensations paid to its employees and further agrees that any of its subcontractors shall be required to agree to withhold any services performed under this contract".

153.15 INTEREST AND PENALTIES

(A) All taxes imposed, including estimated payments, and all moneys 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 percent (1%) per month or fraction of a month.

(B) In addition to interest as provided in subsection (A) hereof, penalties based on the unpaid tax are hereby imposed as follows:

(1) For failure to pay taxes, including estimated payments, when due, other than taxes withheld, one percent (1%) per month or fraction of a month, not to exceed 50 percent (50%) of the total tax due.

(2) For failure to remit taxes withheld from employees, ten percent per month or fraction of a month, not to exceed 100 percent (100%) of the total tax due, in addition to the tax withheld.

(C) In the case of a taxpayer who fails to file his or her return when due, and who is not otherwise exempt from the filing requirement, the Administrator may impose a penalty of fifty dollars (\$50.00) for the first offense and one hundred dollars (\$100.00) for each subsequent offense, in addition to any other penalties which may otherwise be imposed.

(D) 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 resulting from a federal audit, providing an amended return is filed, and the additional tax is paid within three months after final determination of the federal tax liability.

153.16 ALLOCATION OF FUNDS

The funds collected under the provisions of this ordinance shall be deposited in the general funds and said funds shall be disbursed in the following order, to wit:

- (A) Such part thereof as shall be necessary to defray all costs of collecting taxes levied by this ordinance and enforcing the provisions hereof;
- (B) Such part thereof as shall be necessary for the purpose of paying the cost of general municipal operations;
- (C) Such part thereof as council may appropriate for the purpose of paying costs of maintenance and the purchase of new equipment;
- (D) Such part thereof as council may appropriate for the purpose of paying the cost for the repair and maintenance of streets.

153.17 VIOLATIONS PROHIBITED

- (A) No person subject to the provisions of this ordinance shall:
 - (1) Fail, neglect or refuse to make any return or declaration required by this ordinance; or
 - (2) Make any incomplete, false or fraudulent return; or
 - (3) Fail, neglect or refuse to pay the tax, penalties and/or interest imposed by this ordinance; or
 - (4) Fail, neglect or refuse to withhold the tax from employees or remit such withholdings to the Administrator; or
 - (5) Refuse to permit the Administrator or any duly authorized agent or employee to examine the books, records, papers and Federal and State income tax returns relating to the income or net profits of a taxpayer; or
 - (6) Fail to appear before the Administrator and to produce the books, records, papers or Federal and State 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 profit of a taxpayer; or
 - (8) Fail to comply with the provisions of this ordinance or any order or subpoena of the Administrator authorized hereby; or
 - (9) Give to an employer false information as to the true name, correct social security number and residence address or promptly notify an employer of any change in residence address and date therefore; 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 whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this ordinance.
 - (B) Any person who violates any of the provisions of Section 153.17(a) above shall be subject to the penalties in section 153.99.

153.18 RENTAL PROPERTIES

(A) Each person owning real property within the Village of Mechanicsburg which is rented to others shall, within twenty (20) days after January 1st and July 1st of each year, submit to the Administrator a list of the names and addresses of the renters as of said January 1st and July 1st dates.

(B) A penalty of \$100 shall be imposed for each instance of non-compliance with the provisions of paragraph (A) above.

153.19 BOARD OF REVIEW

(A) A Board of Review, consisting of three (3) electors of the Village, one to be appointed by the Mayor, one to be appointed by the Fiscal Officer, and the third to be selected by the two so appointed, is hereby created. No member shall be appointed to the Board of Review who holds other public office or appointment. The members of the Board of Review shall serve without pay. Effective January 1, 2006, the Board member appointed by the Mayor shall serve a three year term, the Board member appointed by the Village Treasurer shall serve a two year term, and the Board member selected by the two so appointed shall serve a one year term. At the expiration of each term that begins January 1, 2006, each subsequent term shall be three years in length.

(B) A majority of the members of the Board of Review shall constitute a quorum. The Board of Review shall adopt its own procedural rules and shall keep a record of its transactions.

(C) Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this ordinance and who has filed the required returns or other documents pertaining to the contested issue may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Administrator. The request shall be in writing and shall state why the decision should be deemed incorrect or unlawful. The Board of Review shall, on hearing, have jurisdiction to affirm, or reverse, or modify such ruling or decision, or any part thereof. The Board must schedule a hearing within forty-five (45) calendar days of receiving the appeal. The Board must issue a written decision within ninety (90) days after the final hearing and send a notice of its decision by ordinary mail to the taxpayer within 15 days after issuing the decision.

(D) Any person dissatisfied with any ruling or decision of the Board of Review may appeal therefrom to a court of competent jurisdiction within thirty calendar days from the announcement of such ruling or decision. For matters relating to tax years beginning on or after January 1, 2004, any ruling or decision of the Board of Appeal may be appealed to a court of competent jurisdiction or to the State Board of Tax Appeals.

(E) All hearings of the Board of Review shall be conducted privately and the provisions of Section 153.11 hereof with reference to the confidential character of information required to be disclosed by this ordinance shall apply to such matters as may be heard before the Board of Review on appeal.

153.20 COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE

(A) This ordinance shall continue effective insofar as the levy of taxes in concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this ordinance are concerned, it shall continue effective until all of said taxes levied hereunder in the aforesaid periods are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this ordinance shall have been fully terminated, subject to the limitations contained in Section 153.12 and Section 153.17 hereof.

(B) Annual returns due for all or any part of the last effective year of this ordinance shall be due on the date provided in Section 153.05 and Section 153.07 of this ordinance as though the same were continuing.

153.21 SAVINGS CLAUSE

This ordinance shall not apply to any person, firm, corporation, or to any other property as to whom or which it is beyond the power of Council to impose the tax herein provided for. If any sentence, clause, section or part of this ordinance, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall effect only such sentence, clause, section or part of this ordinance and shall not affect or impair the remaining provisions, sentences, clauses, sections or other parts of this ordinance. It is hereby declared to be the intention of Council that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

153.22 RULES AND REGULATIONS

The Council for the Village of Mechanicsburg hereby adopts the Regional Income Tax Agency Rules & Regulations for use as the Mechanicsburg Income Tax Rules and Regulations, and they are hereby incorporated by reference as part of this Ordinance.

153.99 PENALTY

Whoever violates any provisions of 153.01 to 153.22 inclusive shall be guilty of a misdemeanor and shall be fined not more than \$250.00 or imprisoned not more than 30 days, or both, for the first offense; for a second or subsequent offense such a person shall be fined not more than \$500.00 or imprisoned not more than 60 days, or both. The failure of an employer or taxpayer to receive or procure a return or declaration form shall not excuse him from making a return or declaration form, and shall not excuse him from making a return or declaration or paying the tax levied under this ordinance.

Ordinance no. 06-06, passed June 19, 2006, effective July 19, 2006