

TITLE NINE - Taxation
Chap. 181. Earned Income Tax.

CHAPTER 181
Earned Income Tax

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CROSS REFERENCES

Power to levy income tax - see Ohio Const. Art. XVIII, Sec. 3
Payroll deductions - see Ohio R.C. 9.42
Municipal income tax - see Ohio R.C. Ch. 718

181.01 PURPOSE.

The purpose of this chapter is to provide funds for capital improvements of the Village for the extension and enlargement of Municipal services and facilities, including, but not limited to, streets, alleys, curbs, gutters, sidewalks, sanitary sewers and storm drainage facilities, and for general operating expenses.
(Ord. 69-18. Passed 12-22-69.)

181.02 DEFINITIONS.

As used in this chapter:

- (a) "Administrator" or "Superintendent of Taxation" or "Superintendent" means the individual designated by this chapter, whether appointed or elected, to administer and enforce the provisions of this chapter, or the person executing the duties of Superintendent of Taxation.

- (b) "Association" means a partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.
- (c) "Board of Tax Appeals" means the Board created by and constituted as provided in Section 181.13.
- (d) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual partnership, association, corporation or any other entity.
- (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, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other compensation basis.
- (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 whatsoever.
(Ord. 69-18. Passed 12-22-69.)
- (j) "Manager" means any of the employer's officers, responsible persons, employees having control or supervision and employees charged with the responsibility of filing the return, paying taxes, and otherwise complying with this chapter.
(Ord. 2006-06. Passed 11-13-06.)
- (k) "Net profits" means the net gain from the operation of a business, profession or enterprise 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.
- (l) "Nonresident" means an individual domiciled outside the Village.
- (m) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Village.
- (n) "Other activity" means any undertaking, not otherwise specifically defined herein, which is normally entered into for profit, including, but not limited to, rental of real and personal property and a business conducted by a trust or guardianship estate.
- (o) "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.
- (p) "Place of business" means any bona fide office, other than a mere statutory office, factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.
- (q) "Resident" means an individual domiciled in the Village. Any person who maintains a place of abode within the Village for a total of 183 days or more within any twelve month period shall be deemed a resident.

- (r) "Resident unincorporated business entity" means an unincorporated business entity having a place of business within the Village.
 - (s) "Superintendent of Taxation" see "Administrator".
 - (t) "Taxable income" means gross wages, salaries and other compensation paid by an employer or employers before any deductions, other than ordinary and necessary business expenses in the same manner as provided by the Internal Revenue Code, and/or net profits as defined in subsection (j) hereof.
 - (u) "Taxable year" means the calendar year, or the fiscal 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 required to be made. Unless approved by the Administrator, the taxable year of a wage earner shall be a calendar year.
 - (v) "Taxpayer" means a person, whether an individual, partnership, association, corporation or other entity, required hereunder to file a return or pay a tax.
 - (w) The singular shall include the plural, and the masculine shall include the feminine and the neuter.
- (Ord. 69-18. Passed 12-22-69.)

181.03 IMPOSITION OF TAX.

- (a) Subject to the provisions of Section 181.15, an annual tax for the purposes specified in Section 181.01 shall be imposed on and after January 1, 1975, at the rate of one percent per year upon the following:
- (1) On all salaries, wages, commissions and other compensation earned during the effective period of this chapter by residents of the Village.
 - (2) On all salaries, wages, commission and other compensation earned during the effective period of this chapter by nonresidents for work done or services performed or rendered in the Village.
 - (3)
 - A. On the portion attributable to the Village of the net profits earned during the effective period of this chapter of all resident unincorporated businesses, profession or other entities, derived from sales made, work done, 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 during the effective period of this chapter 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 during the effective period of this chapter of all nonresident unincorporated businesses, profession or other entities, derived from sales made, 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 during the effective period of this chapter 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 during the effective period of this chapter of all corporations derived from sales made, work done, 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. 74-6. Passed 11-18-74.)
- (b) The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the Village, in the absence of actual records thereof, shall be determined as follows:
- (1) Multiply the entire net profits by a business allocation percentage to be the average ratio of:
- A. The average net book value 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 net book value of all the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.
As used in this subparagraph, real property includes property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight.
- B. Wages, salaries and other compensation paid or accrued during the taxable period to persons employed in the business or profession for services performed in the Village for wages, salaries and other compensation paid or accrued during the same period to persons employed in the business or profession, wherever their services are performed;
- C. Gross receipts of the business or profession from sales made and services performed during the taxable period in the Village to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.
In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations, be substituted so as to produce such result.
- (2) As used in subparagraph (b)(1)C., "sales made in the Village" means:
- A. All sales of tangible personal property which is delivered within the Village regardless of where title passes is shipped or delivered from a stock of goods within the Village;

- B. 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 and the sales result from such solicitation or promotion;
- C. All sales of tangible personal property which is shipped from a place within the Village to purchasers outside the Village regardless where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(c) For the purpose of this section, the taxable base shall be determined in accordance with Federal tax interpretations, when applicable, and with the accounting methods used by the taxpayer for Federal income tax adjusted to the requirements of this chapter.

(d) Consolidated Returns.

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

(e) Exceptions. The tax provided for herein shall not be levied upon:

- (1) Pay or allowances of active members of the Armed Forces of the United States, or in 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 property or tax exempt activities;
- (2) 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;

- (3) Proceeds of insurance paid by reason of the death of the insured; pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived;
- (4) Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities when such are conducted by bona fide charitable, religious or educational organizations and associations;
- (5) Personal earnings of all persons under sixteen years of age;
- (6) Employment of newsboys as such under eighteen years of age;
- (7) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State 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;
- (8) 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
- (9) Salaries, wages, commission and other compensation and net profits, the taxation of which is prohibited by the Ohio Constitution or any act of the Ohio General Assembly limiting the power of the Village to impose net income taxes.
(Ord. 69-18. Passed 12-22-69.)

181.04 EFFECTIVE PERIOD.

The tax imposed by this chapter shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of business, professions or other activities, earned from January 1, 1970, to and including the effective date of the repeal of this chapter.
(Ord. 69-18. Passed 12-22-69.)

181.05 RETURN AND PAYMENT OF TAX.

(a) Each taxpayer, except as herein provided, shall, whether or not a tax is due thereon, make and file a return on or before April 30 of the year following the effective date of this chapter (Ordinance 69-18, passed December 22, 1969), and on or before April 30 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or period. The Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by the 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 tax under this chapter, is such salary, wages, commissions or other compensation.

- (b) The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon requests from such Administrator setting forth:
- (1) The aggregate amounts of salaries, wages, commissions and other compensation earned and gross income from business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to the tax;
 - (2) The amount of the tax imposed by this chapter on such earnings and profits; and
 - (3) Such other pertinent statements, information returns or other information as the Administrator may require.
- (c) The Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period not to exceed six 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. The Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due.
- (d) (1) The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the amount of taxes shown as due thereon. However, credit shall be allowed for:
- A. Any portion of the tax so due which has been deducted at the source pursuant to the provisions of Section 181.06;
 - B. Any portion of the tax which has been paid by the taxpayer pursuant to the provisions of Section 181.07; and
 - C. Credit to the extent allowed by Section 181.15 for tax paid to another municipality.
- (2) Subject to the limitations contained in Section 181.11, any taxpayer who has overpaid the amount of tax to which the Village is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment or part thereof, shall be refunded.
- (e) (1) Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Sections 181.11 and 181.15. Such amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

- (e) (1) Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Sections 181.11 and 181.15. Such amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.
- (2) Within three months from the final determination of any Federal tax liability affecting the taxpayer's tax liability, such taxpayer shall make and file an amended 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 a claim for refund of any overpayment.
(Ord. 69-18. Passed 12-22-69.)

181.06 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the Village shall deduct, at the time of the payment of such salary, wages, commission or other compensation, the tax at its then applicable percentage of the gross salaries, wages, commissions or other compensation due by the employer to the employee, and shall, on or before the last day of each month, make a return and pay to the Administrator the amount of taxes so deducted during the previous month. However, if the amount of the tax so deducted by any employer in any one month is less than one hundred dollars (\$100.00), the employer may defer the filing of the return and payment of the amount deducted until the last day of the month following the end of the calendar quarter in which such month occurred.

(b) Such returns shall be on a form or forms prescribed or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefore by the Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such taxes have, in fact, been withheld.

(c) 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.

(d) No person shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him exclusively in or about such person's residence, even though such residence is in the Village, but such employee shall be subject to all of the requirements of this chapter.

(e) The officer or employee having control or supervision of 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 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 a return or pay taxes due.

(f) Manager's Obligation.

- (1) Every manager is deemed to be a trustee of this Village in collecting and holding the tax required under this chapter to be withheld, and the funds so collected by such withholding are deemed to be trust funds. Every manager is liable directly to this Village for payment of such trust funds, whether actually collected by such employer or not. Any tax deducted and withheld is to be considered paid to this Village, whether or not the employer actually remits the tax to this Village, for purposes of determining employee payments or credits only.
- (2) All managers shall be personally liable to the extent of the tax, interest and penalty, jointly and severally, for failure to file the employer's return or to pay the employer's tax, interest and penalty as required under this chapter.
- (3) No change in structure by an employer, including a fundamental change, discharges its manager from liability for the employees' or manager's failure to remit funds held in trust, to file a tax return or to pay taxes.
(Ord. 2006-06. Passed 11-13-06.)

181.07 DECLARATIONS.

(a) Every person who anticipates any taxable income which is not subject to Section 181.06 or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 181.03, shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any. 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 181.06, such person need not file a declaration.

- (b) (1) Such declaration shall be filed on or before April 30 of each year during the life of this chapter, 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.
- (c) (1) Such declaration shall be filed upon a form furnished by, or obtainable from, the Administrator. However, credit shall be taken for Village tax to be withheld from any portion of such income. In accordance with the provisions of Section 181.15, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.
- (2) The original declaration, or any subsequent amendment thereof, may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.
- (3) An amendment declaration must be filed on or before January 31 of the following year or, in the case of a taxpayer on a fiscal year, on or before the date fixed by regulation of the Administrator if it appears that the original declaration made for such taxable year underestimated the taxpayer's income by thirty percent or more. At such time a payment which, together with prior payments, is sufficient to pay the taxpayer's entire estimated liability shall be made. If upon the filing of the return required by Section 181.05, it appears that the taxpayer did not pay seventy percent of his tax liability, as shown on the return, on or before January 31, or the date fixed by regulations, whichever is applicable, the difference between seventy percent of the taxpayer's tax liability and the amount of estimated tax actually paid on or before January 31, or the date fixed by regulation, whichever is applicable, shall be subject to the interest and penalty provisions of Section 181.10.
- (d) (1) Such declaration of net estimated tax to be paid the Village shall be accompanied by a payment of at least one-fourth of the estimated annual tax, less credit, 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. However, 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) The last quarterly payment of estimated tax need not be made if the taxpayer files his final return and pays the balance of the tax due thereon within forty-five days following the end of his taxable year.
- (Ord. 69-18. Passed 12-22-69.)

181.08 DUTIES AND POWERS OF THE ADMINISTRATOR.

- (a) (1) It shall be the duty of the Administrator to receive the tax imposed by this article in the manner prescribed herein from the taxpayers; to keep an accurate record; and to report daily all moneys so received.
- (2) It shall be the duty of the Administrator to enforce payments of all taxes owing the Village, to keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

(b) The Administrator is hereby charged with the enforcement of the provisions of this chapter and is hereby empowered, subject to the approval of Council by motion, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and administration and enforcement of the provisions of this chapter, including provisions for the reexamination and correction of returns.

(c) In any case where a taxpayer or employer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may assess the amount of tax appearing to be due, together with interest and penalties thereon, if any, in the following manner:

(1) General provisions.

- A. If the Administrator determines that any taxpayer subject to the provisions of this chapter has a tax liability for which he has filed no return or has filed an incorrect return and has failed to pay full amount of tax due, the Administrator may cause the issuance of a proposed assessment showing the amount of the tax due, together with any penalty and interest that may have accrued thereon.
1. Such proposed assessment shall be served upon the taxpayer in person or by mailing to his last known address. Proof of mailing furnished by the U.S. Post Office shall be presumptive proof of receipt by the addressee.
 2. A taxpayer may, within fifteen days after the date the proposed assessment was served or mailed, file a written protest with the Administrator. Within fifteen days after receipt of the protest, the Administrator shall give the protestant an opportunity to be heard. However, the Administrator may extend the date of hearing for good cause shown. After the hearing the Administrator shall withdraw the assessment or he shall adjust or reaffirm the assessment and it shall then become final. If no protest is filed as herein provided, such proposed assessment shall become final fifteen days after being served.

- B. After a proposed assessment becomes final, notice of such final assessment shall be issued and shall be served in the same manner as a proposed assessment.
1. A taxpayer shall have fifteen days after the date the final assessment was served or mailed within which to file written notice of appeal with the Board of Tax Appeals. Such written notice of appeal shall be filed in a sealed envelope plainly marked "Appeal to Board of Tax Appeals" and mailed or delivered to the Administrator who shall, within five days after receipt thereof, deliver such appeal to the Chairman of the Board of Tax Appeals or, if the Chairman is not available, to the Vice-Chairman.
 2. The Board of Tax Appeals, upon receipt of a notice of appeal, shall within fifteen days, notify the Administrator who shall forward, within fifteen days, to the Board, a certified transcript of all action taken by him with respect to the final assessment. Such transcript shall be open to inspection by the appellant and his counsel.
 3. Any taxpayer against whom a final assessment has been issued and who has filed a notice of appeal, shall be granted a hearing by the Board of Tax Appeals. At such hearing the appellant and the Administrator shall be given opportunity to present evidence relating to the final assessment. After the conclusion of such hearing, the Board of Tax Appeals shall affirm, reverse or modify the final assessment and shall furnish a copy of its decision in respect thereof to the appellant and the Administrator. The appellant's copy of the decision shall be served upon him in the same manner as herein provided for the serving of assessments.
- C. When any taxpayer subject to the provisions of this chapter has filed a return indicating the amount of tax due and has failed to pay the tax to the Administrator as required by this chapter, the Administrator need not issue an assessment but may proceed under the provisions of Sections 181.11 and 181.12.

(2) Provisions affecting employers.

- A. If the Administrator determines that an employer subject to the provisions of this chapter has failed to file a return for tax withheld and has failed to pay to the Administrator the full amount of taxes, the Administrator shall issue a proposed assessment showing the amount of tax due, together with any penalties and interest that may have accrued thereon, and the provisions of subparagraph (c)(1)A. and (c)(1)B. hereof shall then apply.

- B. If the Administrator determines that an employer subject to the provisions of this chapter has failed to withhold tax, the Administrator shall issue a proposed assessment showing the tax due, together with any penalties and interest that may have accrued thereon, and the provisions of subparagraphs (c)(1)A. and (c)(1)B. hereof shall then apply.
- C. When an employer subject to the provisions of this chapter has filed a return indicating the amount of tax withheld and has failed to pay the tax to the Administrator as required by this chapter, the Administrator may proceed under the provisions of Sections 181.11 and 181.12 and need not issue an assessment as provided in subparagraphs (C)(2)A. and (C)(2)B. hereof.
- (d) (1) Any taxpayer or employer who has not filed a notice of appeal to the Board of Tax Appeals from a final assessment issued against him shall pay the amount thereof within fifteen days after service of such final assessment.
- (2) Any taxpayer or employer who has filed a notice of appeal to the Board of Tax Appeals from a final assessment issued against him shall pay the amount determined to be due by the Board of Tax Appeals within fifteen days after service of his copy of decision of the Board.

(e) The Administrator shall have the authority, when requested by the taxpayer and for good cause shown, to extend the time of making and filing any return whenever he deems it necessary to do so, but not to exceed a period of six 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.

(f) When an application for deferred payment of tax due is filed by a taxpayer, the Administrator may authorize partial payments of unpaid taxes when, in his judgment, the taxpayer is unable, due to hardship conditions, to pay the full amount of the tax when due, and when, in his judgment, such deferred payments are the best means of accomplishing the intent of this chapter. However, the Administrator shall not authorize an extension of time for the payment of taxes due for more than six months beyond the date of the filing of the application.
(Ord. 84-4. Passed 8-27-84.)

181.09 INVESTIGATIVE POWERS OF THE ADMINISTRATOR; DIVULGING CONFIDENTIAL INFORMATION.

(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 or person subject to, or whom the Administrator believes is subject to, the provisions of this chapter, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Administrator, or his 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 presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and Federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

(c) The refusal to produce books, papers, records and Federal income tax returns or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 181.99.

(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. No person shall divulge such information.

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

(Ord. 69-18. Passed 12-22-69.)

181.10 INTEREST AND PENALTIES.

(a) All taxes imposed 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-half of one percent per month or fraction thereof.

(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 due, other than taxes withheld: one-half of one percent per month or fraction thereof, or ten percent, whichever is greater.
- (2) For failure to remit taxes withheld from employees: three percent per month or fraction thereof, or ten percent, whichever is greater.
- (3) Where the taxpayer has failed to file a declaration on which he has estimated and paid a tax equal to or greater than the tax paid for the previous year, or has failed to file a declaration on which he has estimated and paid tax equal to or greater than seventy percent of the actual tax for the year, or has failed to file a final return and pay the total tax on or before the end of the month following the end of his taxable year: ten percent of the difference between seventy percent of the actual tax for the year and the amount paid through withholding or declaration.

- (4) Except in the case of fraud, the penalty shall not exceed fifty percent of the unpaid tax.

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

(d) Upon recommendation of the Administrator, the Board of Tax Appeals may abate penalty or interest, or both.

(e) In no case shall penalty and interest charges be levied when the total of such penalty and interest amounts to less than one dollar (\$1.00).

(f) Any person required to withhold the tax who knowingly fails to withhold such tax or pay over such tax or knowingly attempts in any manner to evade or defeat such tax or the payment thereof shall, in addition to other penalties provided by law, be liable to a penalty equal to the total amount of the tax evaded, not withheld or not paid over. No other penalty under this section shall be applied to any offense to which this penalty is applied.

(g) Interest but no penalty will be assessed where an extension has been granted by the Administrator and the final tax paid within the period as extended.
(Ord. 69-18. Passed 12-22-69.)

181.11 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(a) In addition to any criminal penalties which may be imposed pursuant to Section 181.99, all taxes imposed by Section 181.03 shall be collectible, together with any interest and penalties thereon, by civil suit. Except in the case of fraud, omission of twenty-five percent or more of income subject to this tax, or failure to file a return, an additional assessment shall not be made after three years from the time the return was due or filed, whichever is later. However, in those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitations, the period within which an additional assessment may be made by the Administrator shall be one year from the time of the final determination of the Federal tax liability.

(b) Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date such payment was made or the return was due, or within three months after the final determination of the Federal tax liability, whichever is later.

(c) Additional amounts of less than one dollar (\$1.00) shall not be refunded or assessed unless such assessment results from income which the taxpayer has failed to report.
(Ord. 69-18. Passed 12-22-69.)

181.12 VIOLATIONS.

- (a) No person shall do any of the following:
- (1) Fail, neglect or refuse to make any return or declaration required by this chapter; or
 - (2) Knowingly make an incorrect return;
 - (3) Knowingly fail or refuse to pay the tax, penalties or interest imposed by this chapter;
 - (4) Knowingly fail or refuse to withhold the tax from his employees and remit such withholding to the administrator;
 - (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;
 - (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;
 - (7) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer;
 - (8) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby;
 - (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;
 - (10) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and Village tax withheld, or knowingly give the Administrator false information; or
 - (11) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.
- (b) (1) Any person subject to the provisions of Sections 181.01 through 181.17, who has failed to file a return or has filed an incorrect return or has failed to pay the full amount of tax due, shall not be deemed to have committed an offense punishable under the provisions of this section until the assessment issued against him under the provisions of Section 181.08, has become due and payable.
- (2) Any person who has filed a return under the provisions of Sections 181.01 through 181.17, indicating the amount of tax due, and has failed to pay the tax, together with any penalties or interest that may have accrued thereon, shall not be deemed to have committed an offense for having knowingly failed to pay the tax, penalties or interest due as provided in subparagraph (a)(3) hereof, until the date of the filing of such return.
- (c) The term "person", as used in this section, shall, in addition to the meaning prescribed in Section 181.02, include in the case of an association or corporation not having any partner, member or officer within the Village, any employee or agent of such association or corporation who can be found within the corporate limits.

(d) All prosecutions under this section must be commenced within the time limit stipulated in Ohio R.C. 718.06.

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

(Ord. 84-4. Passed 8-27-84.)

181.13 BOARD OF TAX APPEALS.

(a) A Board of Tax Appeals, consisting of a Chairman and two other individuals, each to be appointed by Council, and to serve staggered terms of three years, is hereby created. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board shall, at the request of the taxpayer, be conducted privately and the provisions of Section 181.09 with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal.

(b) The Board shall hear and pass on appeals from any ruling or decision of the Administrator and, at the request of the taxpayer or Administrator, is empowered to substitute alternate methods of allocation.

(c) As provided in Section 181.08 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 Tax Appeals and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.

(Ord. 69-18. Passed 12-22-69.)

181.14 ALLOCATION OF FUNDS.

The proceeds from the taxes collected hereunder shall be placed in a capital improvement fund and shall be used solely for the purposes set forth in Section 181.01 as provided for by Council.

(Ord. 69-18. Passed 12-22-69.)

181.15 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Where a resident of the Village 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 rate.

(b) Every individual taxpayer who resides in the Village who received net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside the Village, if it is 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.

(c) A claim for refund or credit under this section shall be made in such manner as the Administrator may by regulation provide.
(Ord. 69-18. Passed 12-22-69.)

181.16 SEPARABILITY.

If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intent of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.
(Ord. 69-18. Passed 12-22-69.)

181.17 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until amended or repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of the taxes levied in the aforesaid period are fully paid and any and all suits, and prosecutions for the collection of such taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Sections 181.11 and 181.12.

(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 181.05 and 181.06 as though the same were continuing.
(Ord. 69-18. Passed 12-22-69.)

181.18 BOARD OF ADJUDICATION.

(a) A Board of Adjudication, consisting of the Mayor, the Clerk-Treasurer and the Solicitor is created. 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 shall constitute a quorum.

(b) The Board shall adopt its own procedural rules and keep a record of its proceedings. All hearings of the Board shall be conducted privately and the provisions of Section 181.09 with reference to the confidential character or information required to be disclosed shall apply to such matters as may be presented to the Board.

(c) The Board shall have the authority, upon request of the Administrator, to modify in whole or in part, any assessment of tax, penalty or interest. In addition, the Board may authorize the Administrator to accept partial payments for a period in excess of the time authorized in Section 181.08.
(Ord. 87-1. Passed 1-27-87.)

181.99 PENALTY.

(a) Whoever violates any of the provisions of this chapter for which no penalty is otherwise provided shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both, for each offense.

(b) Whoever violates Section 181.09(d) shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both. Each disclosure shall constitute a separate offense.

In addition to the penalty provided herein, any employee of the Village who violates the provisions of Section 181.109(d) shall be guilty of an offense punishable by immediate dismissal.

(Ord. 69-18. Passed 12-22-69.)