

ORDINANCE NO. 18-00

AN ORDINANCE REVISING THE VILLAGE OF MALINTA TAX ORDINANCE

WHEREAS, THE INCOME TAX ORDINANCE HAS BEEN CURRENTLY REVIEWED TO DETERMINE IF CHANGES OR REVISIONS SHOULD BE MADE: AND

WHEREAS, THE CITY COUNCIL HAS MET AND CONSIDERED THE CHANGES AND RECOMMENDATIONS PUT BEFORE IT, AND

WHEREAS, THERE HAVE BEEN MANY CHANGES IN THE IRS CODE AND IN THAT PART OF THE OHIO REVISED CODE WHICH AFFECTS MUNICIPAL TAXATION, AND,

WHEREAS, IT IS IN THE BEST INTERESTS OF THE VILLAGE TO MODERNIZE AND UPDATE ITS INCOME TAX ORDINANCE: AND ACCORDINGLY,

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF MALINTA, OHIO.

SECTION 1. That Sections 1. DEFINITIONS; 2. IMPOSITION OF TAX; 4. EFFECTIVE DATE; 5. RECIPROCITY PROVISION-CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES; 6. ADMINISTRATION-DUTIES OF THE VILLAGE CLERK; 7. INVESTIGATIVE POWERS OF THE VILLAGE CLERK-PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION; 8. INTEREST AND PENALTIES; 10. ALLOCATION OF FUNDS; 11. BOARD OF REVIEW; 13. EXEMPTIONS; 14. REFUNDS; 15. EFFECTIVE PERIOD of the Village of Malinta Tax Ordinance which read as follows:

Section 1. Definitions:

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

- A. "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 hereunder.
- B. "ASSOCIATION" - A partnership, limited partnership, or any other form of unincorporated enterprise, owned by two (2) or more persons.
- C. "BUSINESS" - An enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, limited partnership, corporation, association, or any other entity.

- D. "CORPORATION" - 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.
- E. "EMPLOYEE" - An individual who works for wages, salary, commission or other type of compensation in the service and under the control of an employer.
- F. "EMPLOYER" - An individual, partnership, limited partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one (1) or more persons on a salary, wage, commission or other compensation basis.
- G. "NET PROFITS" - The net gain from the operation of a business, profession, enterprise after provision for all cost and expense incurred in the conduct thereof, including reasonable allowance for depreciation, depletion, amortization and reasonable additions to reserve for bad debts, either paid or accrued in accordance with recognized principles of accounting applicable to the method of accounting regularly employed and without deduction of Federal taxes based on income, and without deducting taxes imposed by this Ordinance.
- H. "NON-RESIDENT" - An individual, partnership, limited partnership, corporation, association or other entity domiciled outside the Village of Malinta.
- I. "PERSON" - Every natural person, partnership, limited partnership, corporation, association or other entity domiciled outside the Village of Malinta.
- J. "RESIDENT" - An individual, partnership, limited partnership, corporation, association, or other entity domiciled in the Village of Malinta.
- K. "OTHER ENTITY" - The term "other entity" means any person or unincorporated body not previously named or defined and includes inter alia, fiduciaries located within the Village of Malinta.
- L. "Salaries, wages, commissions, and other compensation" means the total compensation paid to an individual in cash or in kind on an hourly, daily, weekly, monthly, annual, or other basis, including, but not limited to the following: severance or termination pay; wage continuation payments made as a result of early retirement or employment termination; wage continuation payments made as a result of sickness or temporary disability and whether paid by the recipient's group term insurance premiums paid on an employee's behalf to the extent taxed by the IRS; employee contributions to tax sheltered annuities, non-qualified pension plans, or into employer or third party trusts or pension plans as permitted by IRS and which may be excludable from wages for federal tax purposes; employee contributions to "cafeteria

plans" as permitted by IRS under IRS Code Section 125 or 129 or similar plans and which may be excludable from wages for federal tax purposes; ordinary income portion of stock options or employee stock purchase plans; unemployment compensation; supplemental unemployment benefits (SUB pay); strike pay; jury duty pay; working condition fringe benefits subject to tax by IRS; moving allowances, guardian, executor, conservator, trustee, or administrator fees; bonuses; ordinary income portion of lump sum distributions which become subject to federal tax because the recipient did not roll over the distribution within the time required by IRS; cancellation of indebtedness to the extent taxed by IRS; income from bartering.

Wherever the phrase "salaries, wages, commission, and other compensation" appears in Ordinance #80-93, said phrase shall be defined as set forth in Section L of this Ordinance.

The singular shall include the plural and masculine shall include the feminine and the neuter.

Section 2. Imposition of Tax:

To provide funds for the purpose of general municipal operations, maintenance of equipment, new equipment, extension, enlargement and improvement of municipal services and facilities and capital improvement of the Village of Malinta, there be, and hereby is levied a tax upon the earnings at the rate of one percent upon the following:

- A. On all salaries, wages, commissions, unemployment compensation, and other compensation earned on and after January 1, 1998, by resident individuals of the Village of Malinta.

Section 4. Effective Date:

Said tax shall be levied, collected and paid with respect to salaries, wages, commissions and other compensation earned on and after January 1, 1998, and with respect to the net profit of businesses, professions and other activities earned on and after January 1, 1998. Provided, however, that where the fiscal year of the business, profession or other activity differs from the calendar year, the tax shall be applied to that part of the net profit for the fiscal year: thereafter the taxpayer shall report on its fiscal year basis.

Section 5. Reciprocity Provision - Credit for Tax Paid to Other Municipalities:

Every individual taxpayer who resides in the Village of Malinta by who received net profits, salaries, wages, commissions or other personal service compensation, for work done, or services rendered or performed outside of said village, if it be made to appear that he had paid a municipal income tax on such net profits, salaries, wages, commissions or other compensation to another municipality, shall be allowed so paid by him or in his behalf to such other municipality. The credit shall not exceed the tax assessed by this compensation earned in such other municipality or municipalities where such tax is paid.

Section 6. Administration - Duties of the Village Clerk:

A. It shall be the duty of the Village Clerk to receive the tax imposed by this ordinance in the manner prescribed herein from the taxpayer: to keep an accurate record thereof; and to report all monies so received. All cashiers handling tax monies shall be subject directly to the Village Clerk and shall give daily accountings to the Village Clerk.

B. It shall be the duty of the Village Clerk to enforce payment of all taxes owing the Village of Malinta, to keep accurate records for a minimum of five (5) 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 amount of payments thereof.

C. Said Village Clerk is hereby charged with the enforcement of the provisions of this ordinance and to enforce the rules and regulations of council of the Village of Malinta, Ohio, relating to any matter or thing pertaining to the collection of Village income taxes and the administration and enforcement of the provisions of this Ordinance, including provisions for the examination and correction of returns and payments.

D. In any case where a taxpayer has failed to file a return or had filed a return which does not show the proper amount of tax due, the Village Clerk may determine the amount of tax appearing to be due the Village of Malinta, 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.

E. Subject to the consent of the Board of Review or pursuant to regulations approved by the Council of the Village, the Village Clerk shall have the power to compromise any interest or penalties or both, improved by this Ordinance.

F. A Department of Taxation is hereby created within the office of the Village of Malinta. The Council may appoint a Tax Administrator who shall be the chief administrator for the enforcement of this Ordinance including the furnishing of forms, the conducting of audits, and all other administrative duties arising out of the enactment of this Ordinance, with Tax Administrator shall be under the supervision and control of the Village Clerk Treasurer. The hours and salary of

said Tax Administrator shall be fixed by the Council and may be changed from time to time as Council may determine. Such Department of Taxation shall have such deputies, clerks, and other employees as may be from time to time determined by the Council of the Village of Malinta, and shall received such salary as may be determined by the Village Council. The Village Clerk shall recommend all appointments of personnel and purchase all equipment, supplies, and materials for the Department of Taxation subject to the approval of Council. The Department of Taxation shall be charged with the administration and operation of this Ordinance, under the direction of the Village Clerk. The Village Clerk shall prescribe the form and method of accounts and reports for said department, as well as the forms for taxpayer's returns and declarations, and shall be charged with the internal examination and audit of all such accounts and shall exhibit accurate record showing the amount received from each taxpayer, and the date of said receipt. The Village Clerk shall also make written reports to Council annually of all monies collected hereunder during the preceding year.

Section 7. Investigative Powers of the Village Clerk - Penalty for Divulging Confidential Information

A. The Village Clerk or his duly authorized agent or employee, is hereby authorized to examine the books, papers and records of any employer, or of any taxpayer or person subject to tax, or believed to be subject to the provisions of this Ordinance, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due. Every such employer, supposed employer, taxpayer, or supposed taxpayer, is hereby directed and required to furnish to the Village Clerk or his duly authorized agent or employee, within thirty (30) days following a written request by the Village Clerk or his duly authorized agent or employee, the means, facilities, and opportunity for making such examination and investigations as are hereby authorized.

B. The Village Clerk, or his duly authorized agent or employee, is hereby authorized to examine any person, employer, or employee under oath concerning any income which was or should have been returned for taxation, and for this purpose may compel the production of books, Federal income tax records, papers and records and the attendance of all persons before him or her whether as parties or witnesses, wherever he believes such persons have knowledge of such income.

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 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 any order or subpoena of the Village Clerk authorized hereby shall be deemed a violation of this Ordinance, punishable as provided in Section 9 hereof.

D. Tax returns, investigations, hearings and all audit papers and information connected therewith are confidential and shall be carefully preserved so that they shall not be available for inspection by anyone other than the proper agents of the Village of Malinta for official purposes.

E. Any information gained as the result of the filing of any tax returns, investigations, hearings or verifications required or authorized by this Ordinance shall be confidential, except for official purposes and except in accordance with proper judicial order. Any person divulging such information shall upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than FIVE HUNDRED DOLLARS (\$500.00) or imprisoned for not more than six (6) months; or both. Each disclosure shall constitute a separate offense. In addition to the above penalties, any employee of the Village of Malinta who violates the provisions of this section relative to disclosures of confidential information shall be immediately dismissed from the service of the Village.

Section 8. Interest and Penalties:

All taxes imposed by this Ordinance, including taxes withheld or required to be withheld from wages by any employer and remaining unpaid after they have become due, shall bear interest on the amount of the unpaid tax at the rate of two percent (2%) per month or two and 00/100 (\$2.00) dollars per month, whichever sum is greater, and the taxpayers upon whom said taxes are imposed, and the employers required by this Ordinance to deduct, withhold and pay taxes imposed by the Ordinance shall be liable, in addition thereto, to a penalty of one-half (1/2) of one percent (1%) of the amount of the unpaid tax for each month or fraction of a month for the first six (6) months of non-payment, or Twenty-five Dollars (\$25.00) whichever is greater. Upon recommendation of the Village Clerk, the Board of Review may abate interest or penalties, or both, and upon appeal from the refusal of the Village Clerk, to so recommend, the Board of Review may nevertheless abate interest or penalty, or both. In the event that a taxpayer or other entity for which tax is imposed under this Ordinance cannot file a tax return on the due date for said return, said taxpayer or other taxable entity shall file with the Tax Administrator an application for extension of time in which to pay said tax. Said application for extension of time shall not exceed a period of four (4) months. In extension is sought and a return is filed late, the sum of Twenty-five (\$25.00) Dollars shall be imposed upon said taxpayer or other such taxable entity.

Section 10. Allocation of Funds:

The funds collected under the provisions of this Ordinance shall be deposited in the Income Tax Fund and said funds collected for the tax period of January 1, 1998, and thereafter, shall be disbursed in the following order, to wit:

1. Such part thereof as shall be necessary to defray all costs of collecting the taxes and the cost of administering and enforcing the provisions thereof.
2. No more than fifty percent of the net available income tax receipts received annually may be used to defray operating expenses of the Village.

3. At least fifty percent of the net available income tax receipts received annually shall be set aside and used for capital improvements for the Village including, but not limited to, development and construction of storm sewers and street improvements: for public buildings, parks and playgrounds: and for equipment necessary for the police, fire, street traffic, and safety departments.

Section 11. Board of Review:

A. A Board of Review, consisting of three electors of the Village of Malinta, Ohio, Henry County, Ohio, one to be appointed by the Mayor, one to be appointed by the Village Clerk Treasurer, and the third to be selected by the two so appointed by the Mayor and the third to be selected by the two so appointed by the Mayor and the Clerk Treasurer, respectfully, is created by this Ordinance. No member of the Board of Review shall hold any other public office or appointment within the Village of Malinta, Henry County, Ohio. The members of the Board of review shall serve without pay.

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. All hearings of the Board shall be conducted privately or in executive session should said meeting occur during a regular council meeting of the Village of Malinta, Ohio, and the provisions of Section 6 of the Ordinance with reference to the confidential character of information required to be disclosed by the Ordinance shall apply to such matters as may be heard before the Board of Review on appeal.

D. Any person dissatisfied with any ruling or decision of the Village Clerk which is made under authorities conferred by the Ordinance and the Rules and Regulations related thereto may appeal therefrom to the Board of Review within thirty (30) days from the announcement of such ruling or decision of the Village Clerk, and the Board of Review shall, on hearing, have jurisdiction to affirm, reverse, or modify any ruling or decision, or any part thereof.

E. Any person dissatisfied with any ruling or decision of the Board of Review may appeal therefrom to a court of competent jurisdiction within thirty (30) days from the announcement of such ruling or decision.

F. The Board of Review, as created, shall serve during the life or the Ordinance.

Section 13. Exemptions:

The provisions of this Ordinance shall not be construed as levying a tax upon the follows:

1. Funds received from local, state or Federal governments, because of service in the Armed Forces of the United States by the person rendering such service, or as a result of another person rendering such service.

2. Poor relief, pensions, social security, and disability benefits received from private industry or local, state or Federal governments, or from charitable, religious, or educational organizations.

3. Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations.

4. In the case of individuals who are not residents of this municipality, the tax as imposed by this Ordinance shall apply on all salaries, wages, commissions, and other compensation earned during the effective period of the Ordinance for work done or services performed or rendered within this municipality whether such compensation or remuneration is received or earned directly or through an agent and whether paid in cash or in property. The location of the place for which payment is made is immaterial. Any salaries, wages, commissions, and other compensation earned for work or services performed or rendered outside the municipality are specifically exempted. The burden of proof for such exemption shall lie with the employee.

Section 14. Refunds:

Should it appear that any taxpayer had paid more than the amount of the tax to which the Village of Malinta is entitled under the provisions of this Ordinance, a refund of the amount so overpaid shall be made, provided a proper claim for refund of such overpayment of tax has been filed by the taxpayer, or same may be applied toward the declaration of tax due for the ensuing year. Claims for refunds shall be made on forms prescribed by and obtainable from the Village Clerk.

All applications for refunds shall be made within three (3) years of the due date of the final return.

No refund will be made for an amount less than One Dollar (\$1.00).

Section 15. Effective Period:

The Ordinance shall continue effective insofar as the levy of taxes is concerned indefinitely, provided however, that annual returns for the year ending December 31, 1997, shall be filed on or before April 15, 1998. Said ordinance, insofar as the collection of taxes levied in the aforesaid period, and the actions or proceedings for collecting any tax so levied, or enforcing any provision of said Ordinance are concerned, shall continue effective until all of said taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of said taxes are for the punishment of violations of this Ordinance shall have been fully terminated.

shall be repealed and new Sections 1. DEFINITIONS; 2. IMPOSITION OF TAX; 4. EFFECTIVE DATE; 5. EXEMPTIONS-SOURCES OF INCOME NOT TAXED; 6. ANNUAL TAX RETURN AND PAYMENT OF TAX; 7. COLLECTION AT SOURCE-WITHHOLDING BY EMPLOYER; 8. DECLARATION-ESTIMATED TAX PAYMENTS; 10. INVESTIGATIVE POWERS OF THE VILLAGE CLERK-PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION; 11. COLLECTION OF UNPAID TAXES-CIVIL LITIGATION INTEREST AND CIVIL PENALTIES; 13. RELIEF AND RECIPROCITY PROVISIONS-CREDIT FOR TAX PAID TO ANOTHER TAX AUTHORITY; 14. ALLOCATION OF FUNDS; 15. BOARD OF REVIEW; 17. REFUNDS; 18. EFFECTIVE PERIOD; shall be enacted to read as follows:

Section 1. DEFINITIONS

A. "Association" - means a partnership, limited partnership, limited liability company, sub-s corporation, or any other form of unincorporated enterprise, owned by one or more persons.

B. "Board of Review" means the Board created by and constituted as provided in Section 15.

C. "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.

D. "Village" - Village of Malinta, Henry County, Ohio.

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 except for a Sub-S corporation.

F. "Domicile" means the place where a taxpayer has his true, fixed, and permanent home, and to which, whenever the taxpayer is absent, he or she has the intention of returning. Factors to be considered when determining domicile are, but not limited to: registration of vehicles; current driver's license; address on federal and State income tax returns; address of voter's registration; attendance at schools by taxpayer's family; county of taxpayer's estate if deceased.

G. "Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer and whose wages, salary or commissions are subject to withholding of federal income tax, Social Security Tax, and/or Medicare Tax.

H. "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or other entity, whether or not organized for profit, who or which employs one or more persons on a salary, wage, commission or other compensation basis.

I. "Fiduciary" means a guardian, trustee, executor, administrator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.

J. "Fiscal year" means an accounting period of twelve months ending on any day other than other than December 31.

K. "Gross receipts" means the total income of a taxpayer from any source whatsoever.

L. "Net profits" means the net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses incurred in the conduct thereof either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes, providing such accounting method does not conflict with any provision of this chapter or regulations of the Tax Administrator adopted pursuant thereto, and without deduction of taxes imposed by this chapter, Federal, State or other taxes based on income, or in the case of an unincorporated entity, without deduction of salaries or withdrawals of partners or other owners.

M. "Nonresident" means an individual domiciled outside the Village.

N. "Nonresident unincorporated business entity" means an unincorporated business entity not having any office or place of business within the Village.

O. "Pension" means income earned or received as a result of retirement from employment from an IRS qualified retirement plan and which is generally, although not exclusively, reported to the taxpayer by the payor on a Form 1099-R or similar form.

P. "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, shall mean the partners or members thereof, and as applied to a corporation, the officers thereof.

Q. "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 though one or more of his employees or agents.

R. "Resident" means an individual domiciled in the Village.

S. "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Village.

T. Salaries, Wages, and Other Compensation - Salaries, wages, commissions and other compensation: Means the total compensation paid to an individual in cash or in kind on an hourly, daily, weekly, monthly, annual, or other basis, including, but not limited to the following: severance or termination pay; wage continuation payments made as a result of early retirement or employment

termination; wage continuation payments made as a result of sickness or temporary disability and whether paid by the recipient's employer or by a third party; vacation or holiday pay; tips or gratuities received; group term insurance premiums paid on an employee's behalf; employee contributions to tax sheltered annuities, non-qualified pension plans, or into employer or third party trusts or pension plans as permitted by IRS and which may be excludable from wages for federal tax purposes; employee contributions to "Cafeteria Plans" as permitted by IRS under IRS Code Section 125, 127 or 129 or similar plans and which may be excludable from wages for federal purposes; ordinary income portion of stock options or employee stock purchase plans; supplemental unemployment benefits (SUB Pay); strike pay; jury duty pay; employer or employee contributions or amounts credited to a non-qualified pension plans or deferred compensation plans at the time of deferral; working conditions fringe benefits subject to tax by IRS; guardian, executor, conservator, trustee, or administrator fees; bonuses; ordinary income portion of lump sum distributions which become subject to federal tax because the recipient did not roll over the distribution within the time required by IRS.

U. "Tax Administrator" means the person appointed as such in accordance with Section 9 or the person fulfilling the duties of Tax Administrator.

V. "Taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net profits are to be computed under this chapter and, in the case of a return for a fractional part of a year, the period from which such return is required to be made. Unless another accounting period is approved by the Tax Administrator, the taxable year of an individual shall be a calendar year.

W. "Taxpayer" means a person, whether an individual, partnership, association or any corporation or other entity, required hereunder to file a return or pay a tax.

Section 2. IMPOSITION OF TAX

To provide funds for the purpose of general municipal operations, maintenance of equipment, new equipment, extension, enlargement and improvement of municipal services and facilities and capital improvement of the Village of Malinta, there be, and hereby is levied a tax upon the earnings and net profits at the rate of one percent (1%) upon the following:

A. On all salaries, wages, commissions, and other compensation earned or received on and after January 1, 1998, and during the effective period of this chapter by residents of the Village.

B. On all salaries, wages, commissions, and other compensation earned or received on and after January 1, 1998, and during the effective period of this chapter by nonresidents for work done or services perform in the Village.

C. On the portion attributable to the Village of the net profits earned on and after January 1, 1998 of all resident unincorporated businesses, professions and other entities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the Village.

D. On the portion of the distributive share of the net profits earned on and after January 1, 1998, 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.

E. On the portion attributable to the Village of the net profits earned on and after January 1, 1998, of all nonresident unincorporated businesses, professions 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 person, unincorporated business entity, profession or other entity has an office or place of business in the Village.

F. On the net profits attributable to Malinta of all nonresident unincorporated businesses, professions or other activities derived from work done or services performed or rendered and business or other activities conducted in Malinta whether or not such businesses have an office in Malinta.

G. On the portion of the distributive share of the net profit earned by a resident individual from a sub "S" Corporation, a limited liability corporation, or a similar business entity which is located outside of Malinta.

H. On that portion of the distributive share of the net profits of a resident individual, partner or owner of a nonresident unincorporated business entity.

I. On the portion attributed to Malinta of the net profits earned during the effective period of this chapter of all corporations derived from sales made, work done or services performed or rendered and business or other activities conducted in Malinta whether or not such corporations have an office or place of business in Malinta.

J. On all income derived anywhere from gaming, wagering, lotteries, or schemes of chance by residents of Malinta or by nonresidents of Malinta when the income derived from gaming, wagering, lotteries, or scheme of change is won, received, or initiated from Malinta sources.

K. On covenants not to compete and on cancellation of indebtedness to the extent includible on the taxpayer's federal tax return.

L. Tax on Business Doing Business Both Within and Without the Village.
The portion of the net profits attributable to Malinta of a taxpayer conducting a business, profession, enterprise or other activity both within and without the boundaries of Malinta shall be determined as provided in Ohio R.C. 718.02 and in accordance with the rules and regulations adopted by the Tax Administrator and the Village Council pursuant to this chapter.

M. Losses sustained in the operation of a business including rental, may not be carried forward or backward.

N. If a resident of Malinta operates a business or businesses (including rental) in another taxing municipality in Ohio and the business or businesses incur a loss, the amount of the loss is deemed primarily subject to the taxing jurisdiction of the other taxing municipality and may not be used to reduce the taxpayer's Malinta tax base.

O. In the case of a corporation that carries on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch factory, office, laboratory or activity within the Village constituting a portion only of its total business, the Tax Administrator may require such additional information as he deems necessary to ascertain whether net profits are properly allocated to the Village. If the Tax Administrator finds that a taxpayer's 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 or she deems appropriated to produce a fair and proper allocation of net profits to the Village.

Section 4. EFFECTIVE DATE

Said tax shall be levied, collected and paid with respect to salaries, wages, commissions and other compensation earned or received on and after January 1, 2001, and with respect to the net profit of businesses, professions and other activities earned or received on and after January 1, 2001. Provided, however, that where the fiscal year of the business, profession or other activity differs from the calendar year, the tax shall be applied to that part of the net profit for the fiscal year and thereafter the taxpayer shall report on its fiscal year basis.

Section 5. EXEMPTIONS - SOURCES OF INCOME NOT TAXED

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

A. Pay or allowance of active members of the armed forces of the United States because of active duty service or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities and only to the extent that the said income is exempt from federal income tax.

B. Poor relief, Social Security benefits, unemployment insurance benefits except for supplemental unemployment benefits, IRS qualified retirement plans or similar payments, disability benefits received from local, state or Federal governments or charitable religious or educational organizations. The disability benefits excludable must be a permanent nature as determined by a physician or government entity.

C. Proceeds of insurance paid by reason of death of the insured, pensions, including industrial pensions, disability benefits paid for total and permanent disability, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.

D. Receipts 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. Alimony received.

F. 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.

G. Interest, dividends and other revenue from intangible property as set forth in O.R.C. 718.01.

H. Amounts included in an employee W-2 Form for moving expense reimbursement when the taxpayer is moving into Malinta.

I. Payments made to Election Workers.

J. Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce.

K. Salaries, wages, commissions and other compensations and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of a municipality to impose net income taxes.

L. The amount of unreimbursed employee business expenses (2106 Expenses) which the employee deducted as an itemized deduction on his or her federal tax return. Taxpayer must furnish copy of the form 2106 and Schedule "A" form 1040 as filed with IRS.

M. Earnings January 1, 2001, of all persons under eighteen (18) years of age, whether residents or nonresident. (80-93).

N. Effective January 1, 2001, the following is not subject to imposition of Malinta tax:

Compensation paid to a nonresident of Malinta for personal services (self-employment) performed within Malinta if the personal services are performed during twelve (12) or fewer days during the calendar year.

Compensation paid to a nonresident individual who is an employee for work or services performed in Malinta if the services or work is performed during twelve (12) or fewer days during the calendar year and further provided that the individual's employer is located outside of Malinta and the individual pays tax on the compensation to the municipal corporation in which the employer's principal place of business is located and no portion of the tax paid is refunded to the individual.

The foregoing two paragraphs do not apply to professional entertainers, professional athletes, promoters of professional entertainment or sporting events and their employees.

For purposes of applying this section, a day is a full day or any fractional part of a day. (O.R.C. 718.011)

O. Expenses Not Deductible

(1) No deduction for health insurance premiums paid by self-employed taxpayers as permitted by IRS is permitted for the Village.

(2) No deduction for self-employed tax paid by self-employed taxpayers as permitted by IRS is permitted for the Village.

(3) No deduction for contributions to IRA or Keough plans made by taxpayers as permitted by IRS is permitted for the Village.

Section 6. ANNUAL TAX RETURN AND PAYMENT OF TAX

A. Except as otherwise herein provided, each taxpayer or person who engages in business as hereinbefore defined, or whose salaries, wages, commissions and other compensation are subject to the tax imposed by this chapter shall, whether or not a tax is due thereon, make and file a return on or before April 15th of each year with the Tax Administrator. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or other period. Joint filing by spouses is permitted.

B. Such return shall be filed with the Tax Administrator on a form or forms furnished by or obtainable upon request from the Tax Administrator setting forth:

(1) The aggregate amounts of salaries, wages, commissions and other compensation earned or received.

(2) Gross income from such business less allowable expenses incurred in the acquisition of such gross income to arrive at a net profit.

(3) The amount of the tax imposed by this ordinance thereon;

(4) Any credits to which the taxpayer may be entitled under the provisions of Sections 7 Tax Withheld By Employer, 8 Estimated Tax Payments and 13 Tax Paid To Another Municipality; and

(5) Such other pertinent statements, information returns or other information as the Tax Administrator may require.

C. The taxpayer making a return required hereunder shall, at the time of the filing thereof, pay to the Village Clerk - Treasurer the balance of the tax due if it exceeds \$0.99.

(1) Should the return or the records of the Tax Administrator indicate an overpayment of the tax to which the Village is entitled under the provisions of this chapter, such overpayment shall be first applied against any existing penalties, interest and tax due in that order, and the balance, if any, at the election of the taxpayer communicated to the Tax Administrator shall be refunded or applied against any subsequent liability hereunder; provided that an overpayments of less than one dollars (\$1.00) shall not be refunded or carried forward.

(2) Where necessary, an amended return shall be filed in order to report additional income and pay any additional tax due, or claim a return of tax overpaid. Such amended return shall be on a form obtainable on request from the Tax Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the annual return.

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

(4) Responsibility for Filing Annual or Amended Tax Return

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 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.

D. The tax return is considered filed if mailed, on the date postmarked by the United States Postal Service or on the date delivered without mailing to the Malinta Tax Office.

E. Extension of time for filing returns. Taxpayers granted extensions of time for filing their federal income tax returns may have an extension for filing their Malinta Tax Return provided that a copy of the federal extension is filed with the Tax Administrator on or before the original due date of the Malinta Tax Return.

The extended date for filing the Malinta return will be the same as the extended date for the federal return regardless of the original due date of the tax return. Statutory interest will be charged from the original due date of the return until date of actual payment.

If a taxpayer wishes to extend the time for filing the Malinta tax return to a date other than that provided by the automatic federal extension, the taxpayer must file such a request in writing to the Tax Administrator prior to the due date of the automatic extension. The extension may be approved or denied by the Tax Administrator upon the terms and conditions set forth by him or her. The request may be denied if the taxpayer is delinquent in the filing of any tax returns or payments of any taxes, penalties, or interest due. The granting of an extension does not extend the time for paying any tax due, it only extends the time for filing the return.

F. The failure of any taxpayer to receive or procure a return, declaration or other required form shall not excuse the taxpayer from filing such forms or from paying the tax due.

Section 7. COLLECTION AT SOURCE - WITHHOLDING BY EMPLOYER

A. Each employer within or doing business with the Village who employs one or more persons on a salary, wage, commission or other compensation basis shall, at the time of the payment thereof, deduct the tax of one percent (1%) from the gross salaries, wages, commissions or other compensation earned or received by residents regardless of where such compensation was earned, and shall deduct the tax of one percent (1%) from the salaries, wages, commissions or other compensation earned or received within the Village by nonresidents thereof.

B. Notwithstanding the provisions of paragraph A. hereof, if such employer within or doing business within Malinta who or which employs a Malinta resident in another taxing municipality requiring such employer to deduct its tax from all employees engaged therein, such employer shall withhold for and remit to the Village of Malinta only the difference, if any, between the tax on such Malinta resident required to be withheld by such other taxing municipality and the tax imposed by this chapter; or shall withhold Malinta tax on 100% of the income subject to Malinta tax if the Malinta resident/employee is employed at a location where a municipal tax is not imposed.

C. Each such employer shall, on or before the last day of the month following the close of each calendar quarter, make a return and remit the tax hereby required to be withheld to the Village Clerk - Treasurer. Such return shall be on a form or forms prescribed by or acceptable to the Tax Administrator and shall be subject to the rules and regulations prescribed therefor by the Tax Administrator. Such employer shall be liable for the payment of taxes hereby required to be deducted and withheld, whether or not such taxes have in fact been so deducted.

(1) Such employer in collecting such tax shall be deemed to hold the same, until payment is made by such employer to the Village of Malinta, as a trustee for the benefit of the Village and any such tax collected by such employer from its employees shall, until the same is paid to the Village, be deemed a trust fund in the hands of such employer.

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

D. On or before January 31 following any calendar year, such employer shall file with the Tax Administrator an annual reconciliation return along with an information return for such employee from whom Malinta income tax has been or should have been withheld, showing the name, address and Social Security number of the employee, the total amount of compensation paid during the year and the amount of municipal income tax withheld from the employee with the municipality for which said tax was withheld identified. The information return shall also include all of the information required to be reported by the employer to IRS on a W-2 Form. At the time of filing the annual reconciliation return the employer shall pay over any amounts deducted or which should have been deducted during the preceding year but which was not remitted. The annual reconciliation form shall be obtained from the Tax Administrator.

E. All individuals, businesses, employers, brokers or others who are required under the Internal Revenue Code to furnish forms 1099 to IRS for individuals or businesses to whom or which they have non-employee compensation shall furnish copies of the said form 1099's to the Tax Administrator or in lieu thereof, a list containing the same information as required by IRS on the 1099's on or before the due date for such forms 1099's as established by IRS. Failure to provide the foregoing information may result in any deductions for payment by the taxpayer taken on the taxpayers return to be disallowed.

F. Every employer shall retain all records necessary to compute withholding taxes due Malinta for a period of five years from the date the Reconciliation Form, W-2 Forms, and 1099 forms are filed.

G. The Return Is Considered Filed When

All returns and forms required to be filed by an employer are considered filed on the date postmarked by the United State Postal Service or on the date delivered without mailing by the taxpayer to the Malinta Tax Office.

H. The failure of any employer to receive or procure a return, or other required form shall not excuse the employer from preparing any information return, withholding tax returns or from filing such forms or from paying the tax due.

I. Payments received for withholding taxes due shall be applied first to penalties due, then to interest due, and then to taxes due.

J. (1) Effective January 1, 2001, Malinta shall not require any nonresident employer, agent of such nonresident employer, or other payer that is not situated in Malinta to deduct and withhold Malinta tax from the compensation earned or received by an individual unless the total Malinta Tax required to be deducted and withheld on account of all of the nonresident employer's employees or other payer's payees exceeds One Hundred Fifty Dollars (\$150.00) for that calendar year. (O.R.C. 718.03 A)

(2) If the Malinta tax to be deducted and withheld on account of all of the employer's employees or other payer's payees exceeds (\$150.00) for any calendar year beginning with the calendar year commencing on January 1, 2001, and thereafter, then the said nonresident employer, agent of such employer, or other payer is required to deduct and withhold Malinta tax in each ensuing year, even if the amount required to be withheld and deducted in each of those ensuing years is One Hundred Fifty Dollars (\$150.00) or less, except as provided in paragraph (3) following. (O.R.C. 718.03 A)

(3) If a nonresident employer, agent of such employer, or other payer that is not situated in Malinta is required to deduct and withhold Malinta tax for an ensuing year as set forth at paragraph J(2) immediately preceding, and the total amount of tax required to be deducted and withheld under that said paragraph J(2) in each of the three consecutive ensuing years is One Hundred Fifty Dollars (\$150.00) or less, than Malinta tax shall not be required to be deducted and withheld by the employer, employer's agent or other payer in any subsequent year after the last of those three consecutive ensuing years unless the amount required to be deducted and withheld in any such subsequent year exceeds One Hundred Fifty Dollars (\$150.00). (O.R.C. 718.03 B)

(4) An "Other Payer" as used in the preceding three paragraphs means any person that pays an individual any time included in the taxable income of the individual, other than the individual's employer or that employer's agent. (O.R.C. 718.03)

Section 8. DECLARATION - ESTIMATED TAX PAYMENTS

A. Every taxpayer who anticipates any tax liability in excess of \$400.00 which is not subject to Section 7 or who engages in business, as hereinafter defined, which is subject to the tax imposed by Section 2, shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity and shall compute the estimated tax due thereon, if any. The Tax Administrator is authorized to provide by regulations, approved by the Board of Review and/or Village Council, that if a taxpayer's taxable income is wholly from wages which the tax thereon will be withheld and remitted to the Village in accordance with Section 7, such taxpayer need not file a declaration. Such declaration shall be filed on or before April 15th of each year during the life of this chapter or within three months after the date the taxpayer becomes subject to tax hereunder for the first time.

B. Those taxpayers having a fiscal year or period differing from the calendar year shall file a declaration within four months after the state of each fiscal year or period.

C. Such declarations shall be filed upon a form furnished by, or obtainable upon request from the Tax Administrator. The original declaration or any subsequent amendment thereof, may be increased or decreased on or before any subsequent quarterly payment date provided for herein.

D. The taxpayer making the declaration shall, at the time of the filing thereof, pay to the Tax Administrator at least one-fourth of the estimated annual tax due after deducting:

- (1) Any portion of such tax to be deducted at the source pursuant to Section 7;
- (2) Any credit allowable under the provisions of Section 13; and
- (3) Any overpayment of previous years' tax liability which the taxpayer has not elected to have refunded.

E. At least a similar amount shall be paid on or before the fifteenth day of the months of June, September and January next immediately following such April 15th of the taxable year, provided that in case an amended declaration has been duly filed, or the taxpayer is taxable for a portion of the year only, the unpaid balance shall be paid in equal installments on or before the remaining payment dates.

Section 9. ADMINISTRATION - DUTIES OF THE VILLAGE CLERK

A. It shall be the duty of the Village Clerk to receive the tax imposed by this ordinance in the manner prescribed herein from the taxpayer and to keep an accurate record thereof; and to report all monies so received. All cashiers handling tax monies shall be subject directly to the Village Clerk and shall give daily accountings to the Village Clerk.

B. It shall be the duty of the Village Clerk to enforce payment of all taxes owing the Village of Malinta, to keep accurate records for a minimum of five (5) 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 amount of payments thereof.

C. Said Village Clerk is hereby charged with the enforcement of the provisions of this ordinance and to enforce the rules and regulations of council of the Village of Malinta, Ohio, relating to any matter or thing pertaining to the collection of Village income taxes and the administration and enforcement of the provisions of this Ordinance, including provisions for the examination and correction of returns and payments.

D. In any case where a taxpayer has failed to file a return or had filed a return which does not show the proper amount of tax due, the Village Clerk may determine the amount of tax appearing to be due the Village from the taxpayer from existing information and shall send to such taxpayer by certified mail a written statement showing the amount of tax, if any, so determined together with interest and penalties thereon. Such determination may be modified or amended based upon

information or data previously filed or subsequently secured by or made available to the Village Clerk. If the taxpayer fails to respond to the assessment within 30 days of its receipt or the date unclaimed, the tax, penalties, and interest assessed shall become due and payable and collectible as are other unpaid taxes.

E. Subject to the consent of the Board of Review or pursuant to regulations approved by the Council of the Village, the Village Clerk shall have the power to compromise any interest or penalties or both, assessed by this Ordinance.

F. A Department of Taxation is hereby created within the office of the Village of Malinta. The Council may appoint a Tax Administrator who shall be the chief administrator for the enforcement of this Ordinance including the furnishing of forms, the conducting of audits, and all other administrative duties arising out of the enactment of this Ordinance, with Tax Administrator shall be under the supervision and control of the Village Clerk Treasurer. The hours and salary of said Tax Administrator shall be fixed by the Council and may be changed from time to time as Council may determine. Such Department of Taxation shall have such deputies, clerks, and other employees as may be from time to time determined by the Council of the Village of Malinta, and shall received such salary as may be determined by the Village Council. The Village Clerk shall recommend all appointments of personnel and purchase all equipment, supplies, and materials for the Department of Taxation subject to the approval of Council. The Department of Taxation shall be charged with the administration and operation of this Ordinance, under the direction of the Village Clerk. The Village Clerk shall prescribe the form and method of accounts and reports for said department, as well as the forms for taxpayer's returns and declarations, and shall be charged with the internal examination and audit of all such accounts and shall exhibit accurate record showing the amount received from each taxpayer, and the date of said receipt. The Village Clerk shall also make written reports to Council annually of all monies collected hereunder during the preceding year.

Section 10. INVESTIGATIVE POWERS OF THE VILLAGE CLERK - PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION

A. The Village Clerk or his duly authorized agent or employee, is hereby authorized to examine the books, papers and records of any employer, or of any taxpayer or person subject to tax, or believed to be subject to the provisions of this Ordinance, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due. Every such employer, supposed employer, taxpayer, or supposed taxpayer, is hereby directed and required to furnish to the Village Clerk or his duly authorized agent or employee, within thirty (30) days following a written request by the Village Clerk or his duly authorized agent or employee, the means, facilities, and opportunity for making such examination and investigations as are hereby authorized.

B. The Village Clerk, or his duly authorized agent or employee, is hereby authorized to examine any person, employer, or employee under oath concerning any income which was or should have been returned for taxation, and for this purpose may compel the production of books, Federal or State income tax records, papers and records and the attendance of all persons before him or her whether as parties or witnesses, wherever he or she believes such persons have knowledge of such income.

C. The refusal to produce books, papers, records, and Federal or State 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 by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any personal to comply with the provisions of this Section or with any order or subpoena of the Village Clerk authorized hereby shall be deemed a violation of this Ordinance, punishable as provided in Section 12 hereof.

D. Tax returns, investigations, hearings and all audit papers and information connected therewith are confidential and shall be carefully preserved so that they shall not be available for inspection by anyone other than the proper agents of the Village of Malinta for official purposes or as permitted in Section E following.

E. Any information gained as the result of the filing of any tax returns, investigations, hearings or verifications required or authorized by this ordinance shall be confidential, except for official purposes which includes the exchange of information with other tax authorities or in accordance with property judicial order. Any person divulging such information shall upon conviction thereof, be deemed guilty of a misdemeanor of the 1st degree. Each disclosure shall constitute a separate offense. In addition to the above penalties, any employee of the Village of Malinta who violated the provisions of this section relative to disclosures of confidential information shall be immediately dismissed from the service of the Village.

Section 11. COLLECTION OF UNPAID TAXES - CIVIL LITIGATION INTEREST AND CIVIL PENALTIES

A. All taxes imposed by this Ordinance shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Such suit shall be brought within three (3) years after the tax was due or the return was filed, whichever is later in accordance with O.R.C. 718.12 A.

B. All taxes imposed by this Ordinance, including taxes withheld or required to be withheld from wages by any employer and remaining unpaid after they have become due, shall bear interest on the amount of the unpaid tax at the rate of two percent (2%) per month or fraction thereof or two dollars (\$2.00) per month, whichever sum is greater, and the taxpayers upon whom said taxes are imposed, and the employers required by this Ordinance to deduct, withhold and pay taxes imposed by the Ordinance shall be liable, in addition thereto, to a penalty of one-half (1/2) of one percent (1%) of the amount of the unpaid tax for each month or fraction of a month for the first six

(6) months of non-payment, or Twenty-five Dollars (\$25.00), whichever is greater. Upon recommendation of the Village Clerk, the Board of Review may abate interest or penalties, or both, and upon appeal from the refusal of the Village Clerk, to so recommend, the Board of Review may nevertheless abate interest or penalty, or both. In the event that a taxpayer or other entity for which tax is imposed under this ordinance cannot file a tax return on the due date of said return, said taxpayer or other taxable entity shall file with the Tax Administrator an application for extension of time in which to pay said tax as set forth in Section 6. E. If no extension is sought and a return is filed late, the sum of Twenty-five Dollars (\$25.00) shall be imposed upon said taxpayer or other such taxable entity.

Section 13. RELIEF AND RECIPROCITY PROVISIONS - CREDIT FOR TAX PAID TO ANOTHER TAX AUTHORITY

1. It is the intent of this section that a taxpayer, subject to tax in more than one municipality on the same income, who has complied with the provisions hereof shall not be required by this chapter to pay a total municipal income tax on such income greater than the tax imposed at the higher rate.

Accordingly, notwithstanding any other provisions of this chapter:

A. Residents of the City.

When a resident of Malinta is subject to and has paid or has acknowledged liability for, a municipal income tax in another municipality or state, except the State of Ohio or except a state which has a reciprocity agreement with the State of Ohio, on the same income taxable under this chapter and such other municipality or state, except the State of Ohio or except a state which has a reciprocity agreement with the State of Ohio, does not allow a credit to its nonresidents, such Malinta resident may claim a credit of the amount of such tax paid to the other municipality, or state, except the State of Ohio, or except a state which has a reciprocity agreement with the State of Ohio, but not in excess of the tax assessed by this chapter.

B. If the tax due such other municipality has been paid to or withheld in such other municipality, a resident of Malinta may claim credit for and assign Malinta any claim for refund to which he or she may be entitled from such other municipality. In the event an amount is not received by Malinta equal to such credit claimed by reason of tax payments made to, or withheld in such other municipality, then the taxpayer shall be liable to Malinta for an amount by which the claimed credit exceeds the amount recovered on such assignment by Malinta, together with penalty and interest. If satisfactory evidence is offered, however, that the taxpayer is entitled to the claim covered by the assignment, such taxpayer shall not be deprived of credit therefor because of fault or neglect on the part of either municipality.

C. Assignment of any claim for refund to which a Malinta resident may be entitled from another municipality shall be tentatively accepted as payment of that portion of the Malinta income tax represented by such assignments; provided that an overpayment resulting from the credit allowed by reason of such assignment shall not be refunded until such assignment has been remitted to Malinta by such other municipality.

D. The credits provided for shall not be allowed unless the same are claimed in a timely return or form acceptable to, and filed with the Tax Administrator. In the event a taxpayer fails, neglects or refuses to file such timely return or form he shall not be entitled to such credit and shall be liable for the full amount of tax assessed by this chapter, together with such interest and penalties, both civil and criminal, as are prescribed in this chapter.

E. No credit shall be given for any tax paid to a school district.

Section 14. ALLOCATION OF FUNDS

The funds collected under the provisions of this Ordinance shall be deposited in the Income Tax Fund and said funds collected for the tax period of January 1, 1999, and thereafter, shall be disbursed in the following order, to wit:

1. Such part thereof as shall be necessary to defray all costs of collecting the taxes and the cost of administering and enforcing the provisions thereof.

2. No more than sixty percent (60%) of the net available income tax receipts received annually may be used to defray operating expenses of the Village.

3. At least forty percent (40%) of the net available income tax receipts received annually shall be set aside and used for capital improvements for the Village including, but not limited to, development and construction of storm sewers and street improvements: for public buildings, parks and playgrounds; and for equipment necessary for the police, fire, street traffic, and safety departments. (ORD #182-98)

Section 15. BOARD OF REVIEW

A. A Board of Review, consisting of three electors of the Village of Malinta, Ohio, Henry County, Ohio, one to be appointed by the Mayor, one to be appointed by the Village Clerk Treasurer, and the third to be selected by the two so appointed by the Mayor and the Clerk Treasurer, respectfully, is created by this Ordinance. No member of the Board of Review shall hold any other public office or appointment within the Village of Malinta, Henry County, Ohio. The members of the Board of review shall serve without pay.

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 written record of its transactions.

C. Any person dissatisfied with any ruling or decision of the Village Clerk which is made under authority conferred by the Ordinance and the Rules and Regulations related thereto may appeal therefrom to the Board of Review within thirty (30) days from the announcement of such ruling or decision of the Village Clerk, and the Board of Review shall, on hearing, have jurisdiction to affirm, reverse, or modify any ruling or decision, or any part thereof.

D. Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter may appeal therefrom in writing to the Board of Review within thirty calendar days from the issuance of such ruling or decision by the Administrator. The appeal must state the alleged errors in the Administrator's ruling or decision. The Board must schedule a hearing within 45 calendar days of receiving the appeal unless the taxpayer expressly waives the hearing and chooses instead to let the Board render its decision on the writings submitted by the Administrator and the Appellant. If the taxpayer does not waive the hearing, the taxpayer is entitled to appear before the Board and bring with him or her representation of his or her choosing. The Board must issue a written decision within 90 days after the final hearing and send a notice of its decision to the taxpayer within 15 days after issuing the decision. If the Board fails to comply with the provisions of this section, the taxpayer's appeal will default in favor of the taxpayer. The records of the hearing are not open to the public nor is the hearing subject to the State's open meeting law.

E. Whenever the Administrator issues a decision that is appealable to the Board, he or she must inform the taxpayer of their right to appeal and the manner in which the appeal is to be filed.

F. The Board of Review, as created, shall serve during the life of the Ordinance.

Section 17. REFUNDS

Should it appear that any taxpayer had paid more than the amount of the tax to which the Village of Malinta is entitled under the provisions of this Ordinance, a refund of the amount so overpaid shall be made, provided a proper claim for refund of such overpayment of tax has been filed by the taxpayer, or same may be applied toward the declaration of tax due for the ensuing year. Claims for refunds shall be made on forms prescribed by and obtainable from the Village Clerk.

All applications for refunds shall be made within the time limitation set forth in O.R.C. 718.12(A). No refund will be made for an amount less than one dollar (\$1.00).

Section 18. EFFECTIVE PERIOD

This Ordinance shall continue effect insofar as the levy of taxes is concerned for an indefinite period, provided however, that annual returns for the year ending December 31, 2000, shall be filed on or before April 16, 2001. This Ordinance, and all prior ordinances shall continue to be effective until all taxes, penalties, and interest due under the said ordinances are fully paid and all tax returns due are filed, and any and all civil litigation and criminal prosecutions for the collection of said taxes have been fully consummated.

This Ordinance shall be in full force and effect at the earliest date allowed by law.

1st Reading:

2nd Reading:

3rd Reading:

PASSED:

MAYOR

ATTESTED:

CLERK