

Resolution No. 282

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ESTABLISHING THE RULES AND REGULATIONS FOR THE ADMINISTRATION OF THE VILLAGE OF BALTIC INCOME TAX.

RULES AND REGULATIONS ISSUED BY TAX ADMINISTRATOR UNDER AUTHORITY OF SECTION 3 OF ORDINANCE NO. 362 PASSED BY A MAJORITY OF ELECTORS ON JUNE 6, 1978 EFFECTIVE JULY 1, 1978.

BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF BALTIC, OHIO, AS FOLLOWS:

ARTICLE I
DEFINITIONS

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

ADMINISTRATOR means the individual designated by the ordinance, whether appointed or elected, to administer and enforce the provisions of the ordinance, regardless of the particular title assigned such individual.

ASSOCIATION means a partnership, cooperative, limited partnership, or any other form of unincorporated enterprise owned by two or more persons.

THE BOARD means the Board of Review provided for by Section 12 of the ordinance.

BUSINESS means an enterprise, cooperative 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. The ordinary administration of a decedent's estate by the executor or administrator, and the mere custody, supervision and management of trust property under passive trust, whether inter vivos or testamentary, unaccompanied by the actual operation of a business as herein defined shall not be construed as the operation of a business.

BUSINESS ALLOCATION as used in these regulations, means the portion of net profits to be allocated to Baltic as having been made in Baltic, either under separate accounting method, or under the three factor formula of property, payroll, and sales, provided for in Section 3 of the ordinance.

VILLAGE means the Village of Baltic, Tuscarawas County.

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.

EMPLOYEE means one who works for wages, salary, commission or other types of compensation in the service of an employer. Any person upon whom an employer is required to withhold for either federal income or social security or on whose account payments are made under the Ohio Workmen's Compensation law shall prima facie be an employee.

EMPLOYER means an individual, partnership, association, corporation (including a corporation not for profit), governmental agency, board, body, bureau, department, sub-division, or unit or any other entity, who or that employs one or more persons on a salary, wage, commission or other compensation basis whether or not such employer is engaged in business. It does not include a person who employs only domestic help for such persons' private residence.

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FISCAL YEAR means an accounting period of twelve (12) months or less ending on any day other than December 31st. Only fiscal years accepted by the Internal Revenue Service for federal income tax purposes may be used for Baltic tax purposes.

GROSS RECEIPTS means total income from any source whatsoever.

NET PROFITS means a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for federal income tax purposes, without deduction of taxes imposed by this ordinance, federal, state and other taxes based on income; and in the case of an association, without deduction of salaries paid to partners, and other owners; and otherwise adjusted to the requirements of this ordinance.

NON-RESIDENT means an individual domiciled outside the Village of Baltic.

NON-RESIDENT UNINCORPORATED BUSINESS ENTITY means one not having an office or place of business within Baltic.

THE ORDINANCE means Ordinance No. 362 passed a majority of electors and any amendments and supplements thereto effective on and after July 1, 1978.

PERSON means every natural person, partnership, fiduciary, association, corporation, or other entity. Whenever used in a clause prescribing or 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, and in the case of any unincorporated entity or corporation not having any partner, member of officer within the Village of Baltic any employee or agent of such unincorporated entity or corporation who can be found within the corporate limits of the Village of Baltic.

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.

RESIDENT means an individual domiciled in the Village of Baltic.

RESIDENT UNINCORPORATED BUSINESS ENTITY means an unincorporated business entity having an office or place of business within Baltic.

TAXABLE INCOME means wages, salaries and other compensation paid by an employer or employers before deductions of any kind, and or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of the ordinance and these regulations.

TAXABLE YEAR means the calendar year, or the fiscal year, used as the basis on which net profits are to be computed under the ordinance, and in the case of a return for a fractional part of a year, the period for which such return is required to be made.

TAXPAYER means an individual, association, corporation or other entity required by the ordinance to file a return and/or to pay a tax. In all definitions and these regulations and singular shall include the plural and the masculine shall include the feminine and the neuter.

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ARTICLE II
IMPOSITION OF TAX

A. Bases

1. Resident Employee:

a. In the case of residents of Baltic an annual tax of one per cent (1%) is imposed on all salaries, wages, commissions, and other compensation earned during the effective period of the ordinance. For the purpose of determining the tax on the earnings of resident taxpayers taxed under Section 3, paragraph A of the ordinance, the source of the earnings and the place or places in or at which the services were rendered, are immaterial. All such earnings wherever earned or paid are taxable.

2. Non-resident Employee:

a. In the case of individuals who are not residents of Baltic there is imposed under Section 3, paragraph-B of the ordinance, a tax of one per cent (1%) 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 Baltic 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 from which payment is made is immaterial.

3. a. Imposition of Tax on Net Profits of Resident Unincorporated Businesses:

1. In the case of resident unincorporated businesses, professions, enterprises, undertakings or other entities conducted, operated, engaged in, prosecuted or carried on, irrespective of whether such taxpayer has an office or place of business in Baltic, there is imposed an annual tax of one per cent (1%) on the net profits earned, accrued or received during the effective period of the ordinance attributable to Baltic under the formula or separate accounting method provided for in Article II-B of these regulations derived from sales made, work done or services performed or rendered and business or other activities conducted in Baltic.

4. a. Imposition of Tax on Net Profits of Non-Resident Unincorporated Businesses:

1. In the case of non-resident unincorporated businesses, professions, enterprises, undertakings, or other activities conducted, operated, engaged in, prosecuted or carried on, there is imposed an annual tax of one per cent (1%) on the net profits earned, accrued or received during the effective period of the ordinance attributable to Baltic, under the formula or separate accounting method provided for in Article II-B of these regulations.

5. Imposition of Tax on Net Profits of Corporations.

a. In the case of corporations, whether domestic or foreign and whether or not such corporations have an office or place of business in Baltic, there is imposed an annual tax of one per cent (1%) on the net profits earned, received or accrued during the effective period of the ordinance attributable to Baltic under the formula or separate accounting method provided for in Article II-B of these regulations.

6. Amplification:

In amplification of the definition contained in Article I of these regulations but not in limitation thereof, the following additional information is furnished.

a. NET PROFITS

1. Net Profits as used in the ordinance and these regulations means net profits derived from any business, profession or other activity or undertaking carried on for

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profit or normally carried on for profit.

2. Net Profits as disclosed on any return filed pursuant to the provisions of the ordinance shall be computed by the same accounting method used in reporting net income to the Federal Internal Revenue Service. Net Profits, shown on returns filed pursuant to the ordinance must be reconciled with the income reported to the Federal Internal Revenue Service.

b. GROSS RECEIPTS

1. Gross Receipts shall include but not be limited to income in the form of commissions, fees, rentals from real and tangible personal property, and other compensation for work or services performed or rendered as well as income from sales of stock in trade.

2. From gross receipts there shall be deducted allowable expenses to arrive at the net profit subject to tax.

c. EXPENSES

1. All ordinary and necessary expenses of doing business, including reasonable compensation paid employees, shall be allowed but no deduction may be claimed for salary or withdrawal of a proprietor or of the partners, members, or other owners of an unincorporated business or enterprise.

d. CAPITAL GAINS AND LOSSES

1. Capital gains and losses from sale, exchange or other disposition of property shall not be taken into consideration in arriving at net profits earned.

e. RENTALS FROM REAL PROPERTY

1. Residents of Baltic are subject to taxation upon the net income from rentals, regardless of the location of the real property owned.

2. Non-residents of Baltic are subject to such taxation only if the real property is situated within the Village of Baltic.

3. Corporations owning or managing real estate are taxable only on that portion of income derived from property located in the Village of Baltic.

B. Allocation of Business Profits.

A request to change the method of allocation must be made in writing before the end of the taxable year.

1. Separate Accounting Method.

a. The net profits allocable to Baltic from business, professional, or other activities conducted in Baltic by corporations or unincorporated entities (whether resident or non-resident) may be determined from the records of the taxpayer if taxpayer has bona fide records which disclose with reasonable accuracy what portion of his net profits is attributable to that part of his activities conducted within Baltic.

b. If the books and record of the taxpayer are used as the basis for apportioning net profits rather than the business allocation formula, a statement must accompany the return explaining the manner in which such apportionment is made in sufficient detail to enable the Administrator to determine whether or not the net profits attributable to Baltic are apportioned with reasonable accuracy.

c. In determining the income allowable to Baltic from the books and records of a taxpayer an adjustment may be made for the contribution made to the production of such income by headquarters activities of the taxpayer, whether such headquarters is within or without Baltic.

2. Business Allocation Percentage Method.

a. STEP 1: Ascertain the percentage which the average net book value of real and tangible personal property, including leasehold improvements, owned or used in the business and situated within Baltic is of the average net book value of all real and

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tangible personal property, including lease-hold improvements, owned or used in the business wherever situated during the period covered by the return.

1. The percentage of taxpayer's real and tangible personal property within Baltic is determined by dividing the average net book value of such property within Baltic (without deduction of any incumbrances) by the average net book value of all such property owned by the taxpayer must be considered.

1a. The net book value of real and tangible personal property rented by taxpayer shall be determined by multiplying gross annual rents payable by eight (8).

1b. Gross rents means the actual sum of money or other consideration payable, directly or indirectly, by the taxpayer for the use or possession of property and includes:

1bh. Any amount payable for the use or possession of real and tangible personal property or any part thereof, whether designated as a fixed sum of money or as a percentage of sales profits or otherwise;

1hhh. Any amount payable as additional rent in lieu of rent such as interest, taxes, insurance, repairs, or other amounts required to be paid by the terms of a lease or other arrangement.

b. STEP 2: Ascertain the percentage which the gross receipts of the taxpayer derived from sales made and services rendered in Baltic is of the total gross receipts wherever derived during the period covered by the return.

1. The following sales shall be considered Baltic sales:

1a. All sales made through retail stores located within Baltic to purchasers within or without Baltic except such of said sales to purchasers outside Baltic that are directly attributable to regular solicitations made outside Baltic personally by taxpayer's employees.

1ab. All sales of tangible personal property delivered to purchasers within Baltic if shipped or delivered from an office, store, warehouse, factory, or place of storage located within Baltic.

1ac. All sales of tangible personal property delivered to purchasers within Baltic even though transported from a point outside Baltic if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within Baltic and the sale is directly or indirectly the result of such solicitation.

1ad. All sales of tangible personal property shipped from an office, store, warehouse, factory or place of storage within Baltic to purchasers outside Baltic if the taxpayer is not, through its own employees regularly engaged in the solicitation or promotion of sales at the place of delivery.

1ae. Charges for work done or services performed incident to a sale, whether or not included in the price of the property shall be considered gross receipts from such sale.

1b. In the application of the foregoing subparagraphs a carrier shall be considered the agent of the seller regardless of the FOB point or other conditions of the sale; and the place at which orders are accepted of contracts legally consummated shall be immaterial. Solicitation of customers outside Baltic by mail or phone from an office, or place of business within Baltic shall not be considered a solicitation of sales outside Baltic.

c. STEP 3: Ascertain the percentage which the total wages, salaries, commissions and other compensation of employees within Baltic is of the total wages, salaries, commissions and other compensation of all the taxpayer's employees within and without Baltic during the period covered by the return.

1. Salaries and reasonable compensation paid owners or credited to the account of owners or partners during the period covered by the return are considered wages for the purpose of this computation.

2. Wages, salaries, and other compensation shall be computed on the cash or accrual basis in accordance with the method of accounting used in the computation of the entire net income of the taxpayer.

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3. In the case of an employee who performs services both within and without Baltic the amount treated as compensation for services performed within the Village shall be deemed to be:

3a. In the case of an employee whose compensation depends directly on the volume of business secured by him, such as a salesman on a commission basis, the amount received by him for the business attributable to his efforts within Baltic.

3b. In the case of an employee whose compensation depends on other results achieved, the proportion of the total compensation received which the value of his services within Baltic bears to the value of all his services; and

3c. In the case of an employee compensated on a time basis, the proportion of the total amount received by him which his working time within Baltic is of his total working time.

d. STEP 4: Add the percentages determined in accordance with Steps 1, 2, and 3 or such of the aforesaid percentages as may be applicable to the particular taxpayer's business and divide the total so obtained by the number of percentages used in ascertaining said total. The result so obtained is the business allocation percentage. In determining the average percentage, a factor shall not be excluded from the computation merely because said factor is found to be allocable entirely outside Baltic. A factor is excluded only when it does not exist anywhere.

e. STEP 5: The business allocation percentage determined in Step 4 above shall be applied to the entire taxable net profits of the taxpayer wherever derived to determine the net profits allocable to Baltic.

SUBSTITUTE METHOD

a. In the event a just and equitable result cannot be obtained under the formula, the Board, upon application of the taxpayer or the Administrator, may substitute other factors in the formula or prescribe other methods of allocating net income calculated to effect a fair and proper allocation.

b. Application to the Board to substitute other factors in the formula or to use a different method to allocate net profits must be made in writing before the end of the taxable year and shall state the specific grounds on which the substitution of factors or use of a different method is requested and the relief sought to be obtained. A copy thereof shall be served at the time of filing upon the taxpayer or Administrator as the case may be. No specific form need be followed in making such application. Once a taxpayer has filed under a substitute method he must continue to so file until given permission to change by the Board of Review.

C. Operating Loss Carry Forward.

1. The portion of a net operating loss, based on income taxable under the ordinance, sustained in any taxable year subsequent to July 1, 1978 allocable to Baltic may be applied against the portion of the profit of succeeding year(s) allocable to Baltic, until exhausted but in no event for more than five (5) taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.

D. Consolidated Returns.

1. Consolidated returns may be filed by a group of corporations who are affiliated through stock ownership. For a subsidiary corporation to be included in a consolidated return 80% of its stock must be owned by the other members of the affiliated group. A consolidated return must include all companies which are so affiliated.

2. Once a consolidated return has been filed for any taxable year the consolidated group must continue to file consolidated returns in subsequent years unless:

a. Permission in writing is granted by the Administrator to file separate returns.

b. A new corporation other than a corporation created or organized by a member of the group has become a member of the group during the taxable year.

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c. A corporation member of the group is sold or exchanged. Liquidating a corporation or merging one of the corporations of the group into another will not qualify the group for filing separate returns.

3. All subsidiary corporations must agree in writing to the filing of the consolidated return as they will be liable for the tax as well as will be the parent corporation.

4. The net operating loss carryover of a corporation which filed a separate return in a prior year may be carried over to the consolidated return but will be limited in amount to the amount of that same corporation's net income included in the consolidation. The net operating loss carryover from a separate year shall be deducted first before application of the allocation fraction. After application of the allocation fraction the consolidated net operating loss carryover allocated to Baltic shall be allowed.

5. In consolidating the net income, the taxable income of each corporation shall be computed in accordance with the provisions governing the taxable income of separate corporations except that there shall be eliminated unrealized profits and losses in transactions between members of the affiliated group.

E. EXCEPTIONS. - The following shall not be considered taxable.

1. Poor relief, unemployment insurance benefits, supplemental unemployment benefits, old age pensions or similar payments received from local, state or federal governments or charitable or religious organizations.

2. Proceeds of insurance, annuities, workman's compensation insurance, social security benefits, pensions, compensation for damages for personal injuries and like reimbursement, not including damages for loss of profits.

3. Compensation for damage to property by way of insurance or otherwise.

4. Interest and dividends from intangible property.

5. Military pay and allowances received as a member of the armed forces of the United States.

6. Any charitable, educational, fraternal or other type of non-profit association or organization enumerated in Section 718.01 of the Revised Code of Ohio which is exempt from payment of real estate taxes is exempt from payment of the tax imposed by this ordinance.

7. Any association or organization falling in the category listed in the preceding paragraph not exempt from the payment of real estate taxes is required to file declarations and final returns and remit the taxes levied under this ordinance on all business activities of a type ordinarily conducted for profit by taxpayers operating for profit.

8. Where such non-profit association or organization conducts income producing business both within and without the corporate limits, it shall calculate its profits allocable to Baltic under the method or methods provided above.

9. Earnings and income of all persons under 18 years of age whether residents of non-residents.

ARTICLE III RETURN AND PAYMENT OF THE TAX

A. Date and Requirement for filing:

1. On or before April 30th of the year following the effective date of the ordinance and each year thereafter, every person subject to the provisions of Section 3, paragraphs A to D, inclusive, of the ordinance shall, except as hereinafter provided, make and file with the Administrator, a return on a form prescribed by and obtainable upon request from the Administrator, whether or not a tax be due.

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2. If the return is made for a fiscal year or any period less than a year, said return shall be made within four (4) months from the end of each fiscal year or other period.

3. Every person subject to the provisions of Section 3 of the ordinance shall file a return setting forth the aggregate amount of salaries, wages, commissions and other personal service compensation, net profits from business or other activities, including the rental from use of real and personal property, and other income taxable under the ordinance, received for the period covered by the return and such other pertinent facts and information in detail as the Administrator may require.

4. An employee who is permitted to deduct business expenses from gross wages, salaries, or commissions must file a return in order to claim such deductions even though all of part of such wages, salaries, or commissions are subject to withholding.

5. Any taxpayer who received taxable income not subject to withholding under the ordinance must file a return.

6. Any taxpayer having income, wages, or other compensation for which a return must be filed, and also having net profits from a business covering the same or a different period, is required to file only one return.

7. Trustees of active trusts are required to file reports and pay the tax on the taxable income thereof.

8. Except as provided for herein, the tax is on the partnership or association as an entity whether resident or non-resident and a return is required disclosing the net profits allocable to Baltic and the tax paid thereon. However, any resident partner or resident member of an unincorporated entity is required to make a return and pay the tax in accordance with Article II-A-3a. of these regulations.

9. A husband and wife may, in any tax year, elect to file separate or joint returns.

10. Operating losses from business or professional activities, the profits of which would be taxable under the ordinance, may be offset against salaries, wages, commissions and other personal service compensation or against net profits from other business or professional activities. To the extent that such losses are offset they shall not be allowable as an operating loss carry forward under Section 3c of the ordinance of Article III-C of the regulations.

B. Information Required and Reconciliation with Federal Returns.

1. In returns filed hereunder there shall be set forth the aggregate amount of salaries, wages, bonuses, incentive payments, commissions, fees and other compensation subject to the tax earned from each employer, taxable net profits and other pertinent information as the Administrator may require.

2. Where figures of total income, total deductions, and net profits are included, as shown by a federal return, any items of income as are not subject to Baltic tax and unallowable expenses shall be eliminated in determining net income subject to Baltic tax, of these regulations. The fact that any taxpayer is not required to file a federal tax return does not relieve him from filing a Baltic tax return.

3. If a change in federal income tax liability, made by the Federal Internal Revenue Service, or by a judicial decision, results in an additional amount of tax payable to Baltic a report of such change shall be filed by the taxpayer within three (3) months after receipt of the final notice from the Federal Internal Revenue Service or final Court decision.

4. If a change in federal income tax liability results in a reduction of taxes owned and paid to Baltic a claim for refund shall be filed with the Administrator as prescribed in Section 11 of the ordinance and Article VIII-B of these regulations.

C. Extensions:

An automatic extension of time to file the annual return will be granted to (1) one month beyond any extension granted by the Federal Internal Revenue Service.

RECORD OF RESOLUTIONS

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D. Payment with Return.

1. The taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 7 of the ordinance, or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Section 8 of the ordinance, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 3 hereof, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing said return.

2. A taxpayer who has overpaid the amount of tax to which the Baltic Village is entitled under the provisions of the ordinance may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than One Dollar (\$1.00) shall be collected or refunded.

E. Amended Returns

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

ARTICLE IV
COLLECTION OF TAX
AT THE SOURCE

A. Duty of Withholding.

1. Except as otherwise provided herein, it is the duty of each employer within or doing business within Baltic, who employs one or more persons whether as an employee, officer, director or otherwise, to deduct each time any compensation is paid the tax of one per cent (1%) from:

a. The gross amount of all salaries, wages, bonuses, incentive payments, fees, commissions or other forms of compensation paid to residents of Baltic regardless of the place where the services are rendered; and

b. All compensation paid non-residents for services rendered, work performed or other activities engaged in within Baltic.

2. All employers within or doing business within Baltic are required to make the collections and deductions specified in this article regardless of the fact that the services on account of which any particular deduction is required, as to residents of Baltic, were performed outside Baltic.

3. Employers who do not maintain a permanent office or place of business in Baltic, but who are subject to tax on net profits attributable to Baltic under the method of allocation provided for in the ordinance, are considered to be employers within Baltic and subject to the requirement of withholding.

4. The mere fact that the tax is not withheld will not relieve the employee of the responsibility of filing a return and paying the tax on the compensation paid. If the employer has withheld the tax and failed to pay the tax withheld to the Administrator, the employee is not liable for the tax so withheld.

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5. Commissions and fees paid to professional men, brokers and others who are independent contractors, and not employees of the payer, are not subject to withholding or collection of the tax at the source. Such taxpayers must in all instances file a declaration and return and pay the tax pursuant to the provisions of the ordinance and Articles III and V of the regulations.

6.. Where a non-resident receives compensation for personal services rendered or performed partly within and partly without Baltic the withholding employer shall deduct, withhold and remit the tax on that portion of the compensation which is earned within Baltic, in accordance with the following rules of apportionment:

a. If the non-resident is a salesman, agent or other employee whose compensation depends directly on the volume of business transacted or chiefly effected by him, the deducting and withholding shall attach to the portion of the entire compensation which the volume of business transacted or chiefly effected by the employee within Baltic bears to the total volume of business transacted by him within and outside Baltic.

b. The deducting and withholding of personal service compensation of other non-resident employees, including officers of corporations, shall attach to the proportion of the personal service compensation of such employee which the total number of his working hours within Baltic is of the total number of working hours.

c. The fact that non-resident employees are subject to call at any time does not permit the allocation of pay for time worked within Baltic on a seven-day per week basis. The percentage of time worked in Baltic will be computed on the basis of a forty-hour week unless the employer notifies the Administrator that a greater or lesser number of hours per week is worked.

d. The occasional entry into Baltic of a non-resident employee who performs the duties for which he is employed primarily outside the Village, shall not be deemed to take such employee out of the class of those rendering their services entirely outside Baltic. An employer shall withhold the tax on the full amount of any advances made to an employee on account of commissions.

7. An employer required to withhold the tax on compensation paid to an employee shall, in determining the amount on which the tax is to be withheld, ignore any amount allowed and paid to the employee for expenses necessarily and actually incurred by the employee in the actual performance of his services, provided such expenses are incurred in earning compensation, including commissions, and are not deducted as a business expense by the employee under Article II of these regulations.

8. An employer whose records show that an employee is a non-resident of Baltic and has no knowledge to the contrary, shall be relieved of the responsibility of withholding the tax on personal service compensation paid to such employee, provided, however, that such employer must withhold the tax on all personal service compensation paid such employee after the Administrator notifies said employer in writing that such employee is a resident of Baltic. All employees are required to notify the employer of any change of residence and the date thereof.

9. A Baltic employer required to withhold the tax from a Baltic resident for work done or services performed in another municipality, and who does so withhold and remit to such other municipality, shall be relieved from the requirement of withholding the Baltic tax from such Baltic resident, except where the rate of tax for such other municipality is less than the rate of tax imposed by this ordinance. In such case the employer shall withhold and remit the difference to Baltic.

* for services rendered or work done outside Baltic by such employee, ...

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10. No person shall be required to withhold the tax on the wages or other compensation paid domestic servants employed exclusively in or about such person's residence, but such employee shall be subject to all of the requirements of the ordinance.

B. Return and Payment of Tax Withheld.

1. The deductions from salaries, wages, and other compensation required to be made by employers are to begin with the compensation earned on and after the effective date of the ordinance.

The employer (in addition to any return required to be filed with respect to his own earnings or net profits) shall, on or before the last day of the month next following each quarterly period, make a return (Form W-1) and pay to the Administrator the full amount of the tax so deducted or withheld with respect to compensation paid all of his employees subject to the tax under the ordinance. Provided, however, that where he deems such precaution necessary, the Administrator may require an employer to remit withholding taxes at more frequent intervals.

The return (Form W-1) required to be filed under this article shall be made on a form furnished by or obtainable on request from the Administrator.

2. If more than the amount of tax required to be deducted by the ordinance is withheld from an employee's pay, such excess may be refunded by the employer or the Administrator, depending upon the circumstances and the time when the over-withholding is determined.

3. On or before the 31st day of January, following any calendar year in which such deductions have been made by any employer, such employer shall file with the Administrator, in the form prescribed by the Administrator, an information return for each employee from whom Baltic income tax has 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 Baltic income tax withheld from such employee.

4. For the convenience of employers, the information return may be made in one of three ways at the election of each employer, as follows:

a. Those employers using Form W-2 furnished commercially, may submit a copy of such commercial Form W-2 providing the copy furnished the Baltic Village clearly shows the information required in paragraph 5 immediately preceding.

b. Those employers not using Form W-2 furnished commercially may obtain forms upon request from the Administrator.

c. Where the furnishing of this information as above indicated will create a distinct hardship the employer, upon written request to the Administrator, may be permitted to furnish a list of all employees subject to the tax, which list shall show the employee's full name, last known address, social security number, gross amount of compensation paid during the year and the amount of Baltic income tax withheld. Such list may be compiled on any mechanical equipment presently used by the employer, but provision must be made for spacing equal to at least three lines between each name. The employer's name must be indicated on each sheet, each sheet must be numbered and the total number of sheets comprising the complete report indicated on the first page.

d. The gross compensation to be reported for each employee shall be for the full twelve (12) calendar months of the year or such portion thereof as the employee reported on was employed.

5. In addition to such information returns, and at the time the same are filed, such employer shall file with the Administrator Form W-3 to enable the Administrator to reconcile the sum total of compensation paid and taxes withheld as disclosed by information return W-2, or list of employees, and prior returns and remittances made pursuant to the ordinance.

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C. Fractional Parts of Cent: In deducting and withholding the tax at the source and in payment of any tax due under the ordinance, a fractional part of a cent shall be disregarded unless it amounts to one-half cent ($\frac{1}{2}c$) or more in which case it shall be increased to one cent (1c).

ARTICLE V DECLARATIONS

A. Requirement of Filing.

1. A declaration of estimated tax shall be filed by every taxpayer who may reasonably be expected to have taxable income, the tax on which is not or will not be withheld by an employer or employers. Where required such declaration shall be filed within four (4) months after the beginning of the taxable year.

2. A taxpayer's final return for the preceding year may be used as the basis for computing his declaration of estimated tax for the current year. In the event a taxpayer has not previously been required to file a return, a declaration of estimated tax on anticipated income shall be filed in good faith.

B. Date of Filing:

1. A person or other entity conducting a business not previously subject to the tax, or whose employer does not withhold the tax shall file a declaration within four (4) months after the date he becomes subject to the tax.

2. Those taxpayer's having a fiscal year or period differing from the calendar year shall file a declaration within four (4) months after the start of each fiscal year or period.

C. Form for Filing:

1. Such declaration shall be filed upon a form or forms furnished by, or obtainable from the administrator. Provided, however credit shall be taken for Baltic tax to be withheld from any portion of such income. In accordance with the provisions of Section 3 of the ordinance, credit may be taken for tax to be withheld and remitted to another taxing municipality.

2. The original estimate of tax liability or any subsequent amendment thereof may be increased or decreased by filing an amended declaration on or before any quarterly payment date as set forth in Article V-D.1. Such amendment may be made on the regular declaration form or on the back of any quarterly notice form (Q-1).

D. Dates of Payments:

1. The estimated tax may be paid in full with the declaration or in equal installments on or before the last day of the fourth, sixth, ninth and twelfth month after the beginning of the taxable year.

2. The declaration must be accompanied by at least one-fourth ($\frac{1}{4}$) of the estimated tax shown due thereon.

3. In the event an amended declaration has been filed the unpaid balance shown due thereon shall be paid in equal installments over the remaining payment dates.

E. Final Returns Required:

1. The filing of a declaration does not relieve the taxpayer of the necessity of filing a final return even though there is no change in the declared tax liability. A final return must be filed to obtain a refund of any overpayment of over One Dollar (\$1.00).

ARTICLE VI DUTIES OF ADMINISTRATOR

A. Collection of Tax and Retention of Records:

1. It shall be the duty of the Administrator to receive the tax imposed by the ordinance in the manner prescribed herein from the taxpayers; to keep an accurate record thereof, and to report all monies so received.

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2. It shall be the duty of the Administrator to enforce payment of all taxes owing Baltic, 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 amounts of payments thereof.

B. Enforcement Provisions:

1. The Administrator is charged with the administration and enforcement of the provisions of the ordinance and is, subject to the approval of the Board of Review, empowered to adopt, promulgate, and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the ordinance. The Administrator has the authority to correct or adjust any return submitted, when a correction or adjustment is necessary to accomplish the intent of the ordinance.

2. Any taxpayer or employer desiring a special ruling on any matter pertaining to the ordinance or these rules and regulations, should submit to the Administrator in writing all the facts involved and the ruling sought.

3. These regulations, together with all amendments and supplements hereto and all changes herein, will be on file at the office of the Administrator, Baltic, and will be open to public inspection.

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

5. Failure to make any deferred payment when due, shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Section 18 and 19 of the ordinance shall apply.

C. Estimation of Tax by Administrator:

1. Whenever the Administrator has been unable to secure information from the taxpayer as to his taxable income for any year, he may determine the amount of tax appearing to be due and assess the taxpayer upon the basis of such determination, together with the interest and penalties as prescribed in Section 15 of the ordinance.

2. Such determination of tax may be adjusted upon submission by the taxpayer of actual records from which his tax may be computed.

D. Subject to the consent of the Board of Review or pursuant to regulation approved by said Board, the Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 15 of the ordinance.

**ARTICLE VII
EXAMINATION OF BOOKS AND
RECORDS, INFORMATION SO
OBTAINED CONFIDENTIAL:
PENALTY**

A. Investigations by Administrator:

1. The Administrator, or his duly authorized agent, is authorized to examine the books, papers, records and federal income tax returns of any employer, taxpayer or person subject to the ordinance, or whom the Administrator believes is subject to the provisions of the ordinance, for the purpose of verifying the accuracy of any return made: or, if no return was made, to ascertain the tax due under the ordinance.

2. An employer or taxpayer shall furnish, within ten (10) days following a written request by the Administrator, or his duly authorized agent, the means, facilities and opportunity for making examinations and investigations authorized by the ordinance.

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B. Subpoena of Records and Persons.

1. The Administrator, or any person acting in his capacity, is authorized to examine any person, under oath, concerning any income which was, or should have been, returned for taxation or any transaction tending to affect such income. The Administrator may compel the production of books, papers and records and the attendance of all persons before him whether as parties or witnesses, whenever he believes such persons have knowledge of the facts concerning any supposed income or supposed transaction of the taxpayer.

2. The Administrator's order to examine any document mentioned in the preceding paragraph shall state whether the examination is to be at the office of the taxpayer or at the office of the Administrator.

3. The Administrator may order the appearance before him, or his duly authorized agent, of any party whom he believes to have any knowledge of a taxpayer's income or withholdings, or any information pertaining to the taxpayer under investigation, whether or not the individual so ordered has actual custody of the records of the taxpayer being investigated. The Administrator is specifically authorized to order the appearance of the local manager or representative of any taxpayer.

4. Persons required to attend any hearings shall be notified not less than ten (10) days prior to the time of the hearing. The notice shall show the time and place of the hearing and what books, papers or records the witness is to make available at such hearing.

5. The notice shall be served by the Administrator, or his duly authorized agent, by delivering it to the person named personally, or by leaving the notice at his usual place of business or residence or by mailing it to the person by registered mail, return receipt requested, addressed to his usual place of business or residence.

C. Penalty for Non-Compliance:

Refusal by any employer, supposed employer, taxpayer, or supposed taxpayer, or the refusal of any such person to appear before the Administrator or his duly authorized agent, to submit to such examination and to produce the records requested constitutes a misdemeanor punishable by fine or imprisonment, or both, as prescribed by Section 18 of the ordinance.

D. Confidential Nature of Examinations:

Any information gained as a result of any returns, investigations, verifications or hearings before the Administrator or the Board, required by the ordinance or authorized by these rules and regulations shall be confidential and no disclosure thereof shall be made except for official purposes or as ordered by a court of competent jurisdiction. Any person divulging such information shall be guilty of a misdemeanor punishable as prescribed in Section 17 of the ordinance.

In addition to the above penalty, any employee of the Baltic Village who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

E. Retention of Records:

All employers and taxpayers are required to keep such records as will enable the filing of true and accurate returns whether of taxes withheld at the source or of taxes payable upon earnings or net profits, or both. Such records shall be preserved for a period of not less than five (5) years from the date the final return is filed and paid or the withholding taxes are paid.

ARTICLE VIII

COLLECTION OF UNPAID TAXES AND REFUND OF OVERPAYMENTS

A. Unpaid Sums - A Civil Debt:

1. All taxes imposed by the ordinance and not paid when due become, together with interest and penalties thereon, a debt due the Village from the taxpayer and are recoverable as are other debts by civil suit. Employers who are required, under Section 7

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of the ordinance, to withhold and remit the taxes required to be withheld at the source, and who fail to withhold and/or remit, become liable to the Village in a civil action to enforce the payment of the debt created by such failure.

2. No additional assessment shall be made by the Administrator after three (3) years from the time the return was due or filed, whichever is later. Provided, however, there shall be no period of limitation on such additional assessments in the case of a return that omits a substantial portion of income, or filing a false or fraudulent return to evade payment of the tax, or failure to file a return. Failure to report 25% or more of gross income shall be considered a substantial omission.

3. 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 assessment may be made by the Administrator is extended to one (1) year from the time of final determination of federal tax liability.

B. Refunds and Overpayments:

1. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date on which such payment was made, or the return was due, or three (3) months after the determination of the federal income tax liability, whichever is later.

2. No refund shall be made to any taxpayer until he has complied with all provisions of the ordinance and has furnished all information required by the Administrator.

3. Overpayments will be either refunded or credited to the taxpayer's current year's liability at his option. Where no election has been made by the taxpayer, overpayments of any year's taxes shall be applied as follows:

a. To taxes owed for any previous years in the order in which such taxes become due.

b. To his current estimated tax liability.

C. Limitation:

Where the total amount due or refund claimed for a tax year is less than One Dollar (\$1.00) such amount shall not be collected or refunded.

**ARTICLE IX
AMENDMENTS**

From time to time amendments and supplements to these regulations may be issued by the Administrator.

This resolution shall take effect at the earliest period allowed by law.

PASSED: October 17, 1978

ATTEST: Charles Snyder
CLERK

Frank W. Schaefer
MAYOR