

Ordinance No. \_\_\_\_\_

Passed \_\_\_\_\_

**VILLAGE OF BATAVIA  
ORDINANCE NO. 1101-07**

**AN ORDINANCE AMENDING SECTIONS OF THE VILLAGE  
INCOME TAX CODE TO PROVIDE FOR THE ASSESSMENT AND  
COLLECTION OF TAXES BY THE VILLAGE TAX ADMINISTRATOR**

**WHEREAS**, The Tax Commissioner of the Village of Batavia has requested clarification of authority for the imposition and collection of Municipal Income Taxes, and

**NOW THEREFORE, BE IT ORDAINED** by the Council of the Village of Batavia, Ohio, at least a majority of its members concurring:

Section 1. That the Municipal Income Tax Ordinance is amended as follows:

Section **35.21 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS**, shall read as follows:

(A) *Time limitation on suits.* All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit as other debts of like amount are recoverable. No additional assessment shall be made after three years from the time of payment of any tax due hereunder. However, there shall be no period of limitation on an additional assessment in the case of a return that omits gross income in excess of 25% of that required to be

(B) *Costs of Collection of taxes.* In the event the Tax Commissioner attempts to collect delinquent taxes through the civil courts, or a collection service, reasonable administrative costs of collection shall be deducted from all sums received before crediting said sum for the payment of delinquent taxes. Reasonable administrative costs associated with the delinquent tax collection, includes, but is not limited to, fees no less than 25% of the total delinquent amount, including the tax amount, interest and penalties of any post judgment account assigned to a collection agency and no greater than 35% of the total delinquent amount, including tax amount, interest and penalties of any pre judgment account assigned to a collection agency.

Section **35.35 INCOME TAX BUREAU; AUTHORITY**, shall read as follows:

(1) There is hereby created an Income Tax Bureau for the administration of the provisions of this chapter. Such Bureau shall consist of a Tax Commissioner, Deputy Tax Commissioner and such clerical and secretarial personnel as may be determined to be necessary for the administration of this chapter. All such personnel shall be appointed by the Mayor, except that the Tax Commissioner shall be appointed by the Mayor annually on a calendar year basis with the approval of Council. The Tax Commissioner's salary shall be determined by Council on a calendar year basis

(2) It shall be the duty of the Tax Commissioner to collect and receive the tax imposed by this chapter in the manner prescribed therein, and to keep an accurate record thereof, and to report all moneys so received.

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(3) It shall be the duty of the Tax Commissioner to enforce payment of all income taxes owing the municipality, to keep accurate records for a minimum of five years, showing the amount due from each taxpayer required to file a declaration or make any return including a return of taxes withheld, and to show the dates and amounts of payments thereof.

**(C) Determination of Taxes:**

(1) In any case where a taxpayer has failed to file a return or a taxpayer has failed to pay the tax due on a return which does not show the proper amount of tax due, the Tax Commissioner may determine the amount of tax appearing to be due the Village from the taxpayer based on any information in his or her possession and send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

(2) Such determination may be modified or amended based upon information or data subsequently secured by or made available to the Tax Commissioner.

(3) If the taxpayer fails to either, amend and resubmit the tax return to the Village or file an appeal with the Review Board, within thirty (30) days, the tax, penalties and interest assessed shall become due and payable and collectible as are other unpaid taxes.

(D) *Compromise authority.* Subject to the consent of the Board of Review or pursuant to regulation approved by the Board of Review, the Tax Commissioner shall have the power to

**Section 35.37 BOARD OF REVIEW.** , shall read as follows:

(A) *Composition.* A Board of Review consisting of three persons, appointed by the Mayor, with the consent of Council, is hereby created. The individual acting as the local administrator of the tax shall act as secretary of the Board. Board members shall receive such compensation as Council may determine.

(B) *Procedure.* A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. All hearings by the Board shall be conducted privately unless the taxpayer requests a public hearing, and the provisions of § 35.36 hereof with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal.

(C) *Appeals.* Any person dissatisfied with any ruling or decision of the Tax Commissioner which is made under the authority conferred by this chapter **including the commissioner's determination of taxes due the Village**, may appeal there from to the Board of Review within 30 days from the announcement of such ruling or decision by the Tax Commissioner, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.

## RECORD OF ORDINANCES

BARRETT BROTHERS, PUBLISHERS, SPRINGFIELD, OHIO

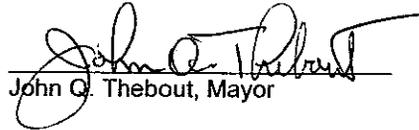
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(D) *Appeals Procedure.* An appeal shall be perfected by notifying the Batavia Village Board of Tax Review, in writing, at 389 Main Street, Batavia, Ohio 45103, post marked or personally delivered to the Village Offices, no later than thirty days from the date of the tax commissioner's determination and shall specify the year or years being appealed. The Board of Review shall convene not later than 45 days from the date the appeal is filed to hear evidence of the appeal. The Board may continue any hearing, in progress, for the purpose of obtaining evidence, however, the Board shall issue a decision within 30 days of the conclusion of said hearing. Said decision can affirm, deny or modify the decision or determination of the Tax Commissioner.

Adopted: March 5, 2007

  
John Q. Thebout, Mayor

  
Angelina Burton, Village Clerk

I, Angelina Burton, Clerk of the Council of the Village of Batavia do hereby certify that the foregoing is a true & correct copy of Ordinance 1101-07 passed by Council of said Village on the 5th day of March, 2007 and recorded in the official journal of said Village. Witness my signature this 13th day of March, 2007.

  
Angelina Burton, Clerk-Treasurer